

GOVERNMENT

OF

THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

FEBRUARY 13, 2001

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 11:32 a.m., Robert N. Sockwell, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT N. SOCKWELL	Chairperson
SHEILA CROSS REID	Vice Chairperson
ANN RENSHAW	Board Member

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner
SUSAN MORGAN-HINTON	Commissioner

OFFICE OF ZONING STAFF PRESENT:

Sheri Pruitt,	Secretary, BZA
Beverly Bailey,	Office of Zoning
Paul Hart,	Office of Zoning
John Nyarku,	Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL PRESENT:

Marie Sansone, Esq.

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
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(11:32 a.m.)

CHAIRPERSON SOCKWELL: Good morning. The public hearing will please come to order. This is the February 13th, 2001 public hearing of the Board of Zoning Adjustment for the District of Columbia.

My name is Robert Sockwell, Chairperson. Joining me today is Sheila Cross Reid, Vice Chair, and Ann Renshaw, and representing the Zoning Commission is Carol Mitten.

Copies of today's hearing agenda are available to you. They are located to my left near the door. All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us.

Upon coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right. The order of procedure for special exceptions and variances is, one, statement and witnesses of the applicant.

Two, government reports, including the Office of Planning, Department of Public Works, et al. Three, the report of the Advisory Neighborhood Commission, the ANC. Four, parties or persons in support. Five, parties or persons in opposition. Six, closing remarks by the applicant.

Cross-examination of witnesses is permitted by the applicant or parties, and the ANC within the property is located

1 is automatically a party in the case.

2 The record will be closed at the conclusion of
3 each case, except for any material specifically requested by the
4 Board, and the staff will specify at the end of the hearing
5 exactly what is expected.

6 The decision of the board on these contested cases
7 must be based exclusively on the public record. To avoid any
8 appearance to the contrary, the Board requests that persons
9 present not engage the members of the board in conversation.

10 Please turn off all beepers and cell phones, or
11 set them to vibrate at this time, so as not to disrupt these
12 proceedings. The Board will now consider any preliminary
13 matters.

14 Preliminary matters are those which relate to
15 whether a case will or should be heard today, such as a request
16 for a postponement, continuance, or withdrawal, or whether proper
17 and adequate notice of the hearing has been given.

18 If you are not prepared to go forward with the
19 case today, or you believe that the Board should not proceed, now
20 is the time to raise such a matter. Does the staff have any
21 preliminary matters?

22 MS. BAILEY: Yes, we do, Mr. Chairman. Good
23 morning. Application Number 16619, Romano Romani and Thomas D.
24 Parry, the applicants in that case are requesting that it be
25 continued to another date.

1 Is there anyone in the audience who represents the
2 applicant, would you please come forward, and please have a seat
3 at the table. Identify yourself and please tell us why your
4 clients are requesting that the application be continued.

5 MS. BAGWELL: Good morning, and thank you very
6 much. Good morning, Mr. Chairman Sockwell, and Members of the
7 Board, and staff. My name is Andrea Bagwell, and I am an
8 attorney with the firm of Harmon, Wilmot, and Brown, located in
9 Washington, D.C.

10 And our firm represents the lobbyist firm of
11 Perry, Romani and DeConsini. As you are aware, on May 17th, we
12 submitted a correspondence to the Office of Zoning on behalf of
13 Parry, Romani, and DeConsini, requesting a variance from the
14 use provisions to allow the premises to be used as general office
15 space, which would be a lobbyist group in the District.

16 Certainly as you are aware, the R-4 District does
17 not allow the proposed use. The hearing scheduled for today, we
18 filed a continuance based on the death of one of the senior
19 partners, Mr. Thomas Parry, who passed on January 7th.

20 And as you can imagine, a small firm and the death
21 of a major partner, particularly a founding partner, has put a
22 lot of demands, in terms of strategic business decisions, on the
23 firm, including the very issue that we are here today, should
24 they request a use variance, will they continue to operate at
25 that space, and how will the firm be structured.

1 And because there is a lot of discussion amongst
2 the partners themselves, we felt that we needed another
3 continuance, certainly to reflect on what our position is going
4 to be.

5 And it could be that we would withdraw this case,
6 but I don't have enough information, in terms of business
7 information, to present to this Board at this time.

8 CHAIRPERSON SOCKWELL: Ms. Bagwell, it appears
9 that this is an extraordinary circumstance, unlike those which
10 normally confront the board with cases that come before us.

11 And while it has not happened often, it has
12 happened. It would seem to me prudent to respect your request
13 for a continuance so that the issues of
14 the -- you can't speak to us unless you are standing here, and
15 have identified yourself.

16 MS. NEIMEYER: My name is Sarah Neimeyer, and I
17 live at --

18 CHAIRPERSON SOCKWELL: Have you presented a
19 witness card?

20 MS. NEIMEYER: Well, you didn't ask for them.

21 CHAIRPERSON SOCKWELL: Okay.

22 MS. NEIMEYER: So I was waiting for you to ask.

23 CHAIRPERSON SOCKWELL: Then just hand those to the
24 individual, please. Thank you.

25 MS. NEIMEYER: My name is Sarah Neimeyer, and I

1 live at 129 Third Street, across the street from the property in
2 question.

3 CHAIRPERSON SOCKWELL: All right.

4 MS. NEIMEYER: My concern about some of the
5 information that she has presented is that while the firm says
6 that they can't at this point talk about future business, they
7 did just merge, and that was just announced in the newspaper,
8 that they are bringing on additional partners. And so I just
9 would like to raise that issue.

10 CHAIRPERSON SOCKWELL: I understand, but you are
11 not disputing the fact that Mr. Parry has in fact passed?

12 MS. NEIMEYER: No, I am not disputing that, but
13 they have been able to make future business decisions.

14 CHAIRPERSON SOCKWELL: That's understood, but the
15 case is in the name of Mr. Parry, who is no longer with us, among
16 others, and since he is a principal to the case application, and
17 his passing represents a potential of major changes with the
18 firm, I don't know whether you have inside information as to
19 exactly how the firm plans to proceed with its business, or if
20 you are just aware that the firm has merged with another.

21 MS. NEIMEYER: I am aware that they merged. Can
22 you ask them to refile since they may be restructuring, or do you
23 have to grant their motion for a continuance?

24 CHAIRPERSON SOCKWELL: Well, I can't ask them to
25 refile because you think they may be restructuring, or because I

1 don't know that they may be restructuring.

2 But I can grant a continuance based upon the fact
3 that the applicants -- well, I can request that the Board grant a
4 continuance based upon the fact that the applicant has presented
5 conclusive information as to a major change in the condition of
6 one of the applicants.

7 MS. NEIMEYER: Okay.

8 CHAIRPERSON SOCKWELL: And that there is a reason
9 to believe that while decisions are being made, and the immediate
10 circumstance of Mr. Parry's demise, that while those situations
11 are being dealt with that we should at least be reasonable.

12 A second continuance wouldn't be normal unless
13 there were particularly significant circumstances, and I think
14 this is a significant circumstance.

15 MS. NEIMEYER: Thank you.

16 CHAIRPERSON SOCKWELL: But I understand that there
17 are other issues that are involved in that, and I believe that
18 Ms. Bagwell has alluded to those, but in a different way. So we
19 understand what you have to say.

20 COMMISSIONER MITTEN: Mr. Chairman, I think that
21 the request for a continuance is warranted in this case, but as
22 you know, we had requested -- the BZA had sent a request to the
23 zoning administrator to send out an inspector, because there was
24 some concern that the use what was being proposed or requested
25 through this variance process, is actually already ongoing at the

1 property.

2 And I would like in the interim to renew our
3 request that a zoning inspector be sent to the property to
4 determine if the property is being illegally used at this time.

5 MS. BAGWELL: Can I speak to that, please?

6 CHAIRPERSON SOCKWELL: Yes.

7 MS. BAGWELL: In response to that, the applicant,
8 as your file indicates, the applicant is presently operating as a
9 lobbying firm, which is why the applicant has -- once they were
10 informed that the use as they have presently utilized the
11 property, is illegal.

12 They then filed to this body, or through the
13 government, for an exception to the use. As you are aware of how
14 the process operates, to send an inspector out there would result
15 in a fine, because certainly the inspector would find that the
16 firm is operating in an R-4 zone for a use that is not permitted.

17 And so I just want some clarification, because I
18 do know that the inspector from DCRA has been out to the facility
19 on one or two occasions, and is monitoring this process.

20 And certainly I would ask that there continue to
21 be monitoring. But I would also ask the Board to be mindful of
22 the fines that are assessed against the applicant because of the
23 use.

24 And if we could set a date certain to come back to
25 this Board by X date for either a withdrawal of the application

1 or for a hearing on the merits, that this Board within its
2 discretion and authority allow us some latitude.

3 CHAIRPERSON SOCKWELL: Ms. Bagwell, can you name
4 the DCRA inspector who has been --

5 MS. BAGWELL: Yes, it is Evonne --

6 CHAIRPERSON SOCKWELL: Rocket.

7 MS. BAGWELL: Yes, sir, Ms. Evonne Rocket is the
8 inspector who has been out there, and they have been cited.

9 CHAIRPERSON SOCKWELL: Okay. Evonne Rocket is
10 known to me as being an active -- that is, who is a currently
11 employed inspector for the zoning division of DCRA, and
12 therefore, I will accept the fact that you state that she has
13 been to the site.

14 And that perhaps the information has not been
15 communicated back to the Office of Zoning. So on that basis,
16 monitoring is taking place.

17 VICE CHAIRPERSON REID: Excuse me, Mr. Chairman.
18 If in fact she has been there, then she would have to have a
19 report, and so it would be tracked by the Office of Zoning
20 wouldn't it?

21 CHAIRPERSON SOCKWELL: It should be.

22 VICE CHAIRPERSON REID: And it should be in the
23 record.

24 CHAIRPERSON SOCKWELL: It should be in their
25 record, but it may not have come to us.

1 VICE CHAIRPERSON REID: No, what I am saying is
2 that if the request was that they go out and that was complied
3 with, and we want to verify that, then we can just ask them for
4 the record.

5 CHAIRPERSON SOCKWELL: Yes, because she will have
6 a daily log.

7 VICE CHAIRPERSON REID: But I do respect the
8 request of counsel to not have a fine imposed given the fact that
9 they were originally not in compliance with the zoning
10 regulations, and the situation is being monitored, and give them
11 an opportunity to come before us and try and remedy something
12 that they were not aware of.

13 CHAIRPERSON SOCKWELL: I believe that under the
14 rules that if a case is before the Board, certain violations are
15 held in abeyance until the completion of the case and the order
16 that would be forthcoming; is that correct?

17 MS. SANSONE: Mr. Chairman, that would be within
18 the discretion of the zoning administrator, since the zoning
19 administrator is charged with enforcement.

20 That's really whether any enforcement should be
21 instituted or should be held in abeyance is really an enforcement
22 decision that is fully within the zoning administrator's
23 discretion. Any review of that is pursuant to the DCRA
24 procedures.

25 CHAIRPERSON SOCKWELL: All right then. Thank you

1 for the clarification. I would then recommend that the staff
2 solicit a report on the number of visits, and the results, and/or
3 reasons, of such visits from the DCRA zoning administrator.

4 And that we not call for any additional or perhaps
5 unnecessary inspections of the property at this time, because it
6 is obvious that Ms. Rocket has been following up.

7 MS. SANSONE: Yes. It just was not clear to me
8 that anyone had been out yet.

9 CHAIRPERSON SOCKWELL: Okay. Ms. Neimeyer, thank
10 you for your comments.

11 BOARD MEMBER RENSHAW: Mr. Chairman, I would like
12 to recommend, and make a motion, that we move to set a date
13 certain for this case so that it is not delayed any further.

14 CHAIRPERSON SOCKWELL: Ms. Bagwell, what would you
15 expect is a reasonable time that the Board might consider for
16 your client to make a decision as to whether or not this case
17 will go forward?

18 MS. BAGWELL: Well, 120 days.

19 CHAIRPERSON SOCKWELL: And 120 days would be --
20 well, that's four months. I would be willing to accept 90 days,
21 subject to the Board's agreement on that.

22 I think that a business decision -- Mr. Parry has
23 probably already been interred you might say, and that decisions
24 that will be made are going to be made either by his heirs, or
25 his business partners, or a combination of both.

1 And I believe that 90 days would be sufficient.
2 As well, our schedule is quite tight, and I think that 90 days
3 would be better even for the Board, but 120 days I believe is not
4 necessary and unreasonable. Board Members.

5 COMMISSIONER MITTEN: I agree that 120 days is
6 excessive, and 90 days is the most I would agree to.

7 VICE CHAIRPERSON REID: That's fine.

8 CHAIRPERSON SOCKWELL: Is that acceptable?

9 BOARD MEMBER RENSHAW: It is acceptable.

10 CHAIRPERSON SOCKWELL: All right. Then we will
11 continue this case to a date certain, approximately 90 days, to
12 the nearest meeting where there is space available.

13 MR. HART: Mr. Chair, if you will give us a minute
14 here, we will give you an exact date.

15 CHAIRPERSON SOCKWELL: All right. Thank you.

16 MS. BAILEY: Mr. Chairman, we have two dates in
17 May; and that is May 1st, which is on a Tuesday, and the first
18 part of that morning would be your meeting date. So it could be
19 in that afternoon, or the 8th, which is that following Tuesday.

20 CHAIRPERSON SOCKWELL: How many cases are on the
21 8th?

22 MS. BAILEY: Ms. Pruitt is out of the room, and I
23 don't have her calendar with me.

24 CHAIRPERSON SOCKWELL: What cases are up for the
25 meeting date on the 1st? How many cases do we have on the 1st?

1 MS. BAILEY: Mr. Hart is saying to me that the
2 15th would be an appropriate date in May.

3 CHAIRPERSON SOCKWELL: Okay. That really puts it
4 at approximately 90 days. So that's fine.

5 COMMISSIONER MITTEN: And is that a.m. or p.m.?

6 MS. BAILEY: In the a.m.

7 CHAIRPERSON SOCKWELL: All right. The case is
8 therefore continued to a date certain, to May 15th, 2001. And
9 you said in the afternoon?

10 MS. BAILEY: No, a.m.

11 CHAIRPERSON SOCKWELL: At 9:30. Well, a.m., as it
12 may not be first on the agenda, and that is a Tuesday. Ms.
13 Neimeyer, do you understand?

14 MS. NEIMEYER: Yes.

15 CHAIRPERSON SOCKWELL: Thank you.

16 MS. BAGWELL: Thank you, Chairman Sockwell, and
17 Members of the Board. Thank you very much.

18 MS. BAILEY: Mr. Sockwell, just for clarification,
19 Ms. Renshaw made the motion and who seconded it?

20 CHAIRPERSON SOCKWELL: I will second it.

21 MS. BAILEY: The staff will record the vote as
22 four to zero to reschedule Application 16619 to May 15th, at 9:30
23 a.m.

24 CHAIRPERSON SOCKWELL: Thank you. Would you call
25 the next preliminary matter if there is another.

1 MS. BAILEY: I am not aware of another one, Mr.
2 Sockwell. Perhaps someone from the audience or the Board has
3 another one.

4 CHAIRPERSON SOCKWELL: Are there any other
5 preliminary matters?

6 (No audible response.)

7 CHAIRPERSON SOCKWELL: Then we will proceed with
8 the first case on the agenda.

9 MS. BAILEY: Application Number 16616, of Clay and
10 Alisa Sell, pursuant to 11 DCMR 3103.2 for variances from
11 Sections 403, 404, and Subsection 2001.3 for relief from the
12 percentage of lot occupancy, rear yard set back requirements, and
13 increasing the non-conforming aspects of the structure, to permit
14 an addition to an existing single-family dwelling in an R-4
15 District at premises 500 A Street, Southeast. The property is
16 located in Square 841, on Lot 804, and the subdivision is pending
17 on this site.

18 All those wishing to testify, would you please
19 stand to take the oath.

20 (All witnesses were sworn.)

21 MS. BAILEY: Thank you. You may be seated. Mr.
22 Chairman, the Office of Planning is not aware of an ANC report on
23 this project. In addition, there is no Office of Planning
24 report. This project is located in the Capitol Hill Historic
25 District.

1 And as you may remember, it was previously
2 scheduled for November 14th. However, at that time the Board
3 rescheduled it to today to allow the applicant an opportunity to
4 meet with ANC-6B, and the case is now ready to go forward.

5 CHAIRPERSON SOCKWELL: Thank you. The applicant
6 may begin.

7 MR. SELL: Mr. Chairman, and Members of the Board
8 and staff, my name is Clay Sell, and my wife, Alisa, is on my
9 right and your left, and our architect, Andre Houston, is to the
10 left of me.

11 We would like to present our case jointly, with
12 Mr. Houston presenting first, and then my wife and I presenting
13 afterwards, or filling in as appropriate.

14 CHAIRPERSON SOCKWELL: That's fine.

15 MR. HOUSTON: My name is Andre Houston, and I am
16 an architect in the District of Columbia. I am holding up an
17 enlargement of the base Atlas of the block under consideration.
18 This is the property right here.

19 This is East Capitol Street, 5th, and A Street,
20 and 6th. As you can see, it is a corner property. Originally --
21 and this is from the surveyor's file, and this was the plat, the
22 oldest diagram of the property on this block.

23 And as you can see, all the properties, including
24 the corner properties, were the same. A later diagram from the
25 surveyor's office shows that at some point the end property here

1 was broken into three properties.

2 CHAIRPERSON SOCKWELL: When you say at some point,
3 do you know what date that was?

4 MR. HOUSTON: No, I don't.

5 CHAIRPERSON SOCKWELL: The date would be available
6 from the Office of the Surveyor?

7 MR. HOUSTON: They weren't very helpful. They
8 just showed me --

9 CHAIRPERSON SOCKWELL: The date has to be
10 available from the Office of the Surveyor. It is in a book and a
11 plate, and would state specifically, and that is a very key
12 element.

13 MR. SELL: If I may, I think that we can say that
14 the subdivisions were made circa 1870, which is the age of all
15 three houses on that lot.

16 MR. HOUSTON: The base Atlas, which is about 1915,
17 shows the three as distinct, separate properties. There was no
18 date on any of the drawings which the Surveyor's Office had.

19 CHAIRPERSON SOCKWELL: Well, those documents came
20 from the little packets that they have in the back.

21 MR. HOUSTON: Yes.

22 CHAIRPERSON SOCKWELL: They did not come from the
23 assessment and taxation book, which would have contained the
24 information that you were looking for.

25 MR. HOUSTON: I will remember that. Yes, they did

1 come from the packets. This is a corner property, and it is two
2 rooms deep, with a half-a-room so to speak on the first floor.
3 It is built with the first floor at grade, so that there is no
4 basement.

5 There is a small cellar of five feet in the front,
6 and any additional cellar space that was added would not have any
7 light, and consequently could not be habitable or occupiable
8 space.

9 Basically, the practical difficulty with which the
10 Cells are dealing with is that the property -- the house is too
11 small, and because the property had been divided and made
12 smaller, it doesn't have room to expand under the present zoning
13 regulations.

14 It is two rooms deep, and in order to -- and two
15 stories high, and in order to test whether this is too small a
16 configuration or an abnormally small configuration, we took a
17 survey of all the corner properties in three blocks in all four
18 directions.

19 And which came to be somewhat more than 50 corner
20 properties, and this was for two reasons. First of all, to get a
21 sense of whether in fact a semi-scientific survey would show that
22 a two-room deep, two-story house, is abnormally small.

23 And indeed none of the properties are that small.

24 And they are either three rooms deep, or they are three stories
25 tall, or more, in this neighborhood as you can see.

1 The second point that we wanted to explore has to
2 do with really the intent of the zoning, which I believe it is
3 fair to say that the intent of the zoning is to ultimately
4 continue and permit those positive aspects of an area to be
5 developed, to be continued.

6 And the point that we wanted to explore here was
7 that in Capitol Hill, in this townhouse area, almost all of the
8 properties that are on the corner fill the corner out and exceed
9 substantially the 60 percent lot occupancy of an R-4 district,
10 which this is.

11 And that that is a positive pattern which has
12 occurred in Capitol Hill, because it permits the building to
13 define both the street which it faces, and the side street;
14 whereas, if it were to follow the strict application of the
15 zoning ordinance, the side street would present the side of the
16 house, and the side and the rear yard to the street, and this
17 urbanistically is not what happens in Capitol Hill, and it is one
18 of the reasons that Capitol Hill is a successful urban
19 environment.

20 In fact, if we look at the pictures there, most of
21 the houses are large on the corners, and there are towers on the
22 corners typically, and this gives a weight to the corners, and
23 defines the corners, and makes Capitol Hill what it is.

24 And consequently we are asking the Board to take
25 this into account, particularly in considering whether this

1 request is in the spirit of the zoning regulations.

2 Now, as to the hardship issue, the house needs to
3 be bigger for several reasons. First of all, these days people
4 want an informal area off of the kitchen, and right now they have
5 just a small kitchen.

6 Secondly, they have almost no storage, and this is
7 a problem for any family in this house; and, thirdly, with only
8 two bedrooms -- right now the Cells have only one child, and they
9 would like to have another child.

10 And as many people would like, they would like a
11 room where they can call a home office also, and they are
12 obviously constrained by the zoning regulations.

13 And these kinds of constraints I think would apply
14 to any family typically trying to use this house. I have drawn a
15 before and after of what the property would look like. This is a
16 before. This is what it looks like now.

17 MR. SELL: If I may, we have copies of these
18 pictures. Would it be appropriate to ass them out?

19 CHAIRPERSON SOCKWELL: All right. Through staff,
20 anything that you wish to submit to the Board, you may do so.

21 MR. HOUSTON: And what it shows is that the two
22 room house would be extended to a three room house on two floors.
23 The architecture would be continued and a bay would be added,
24 much like the bays on Capitol Hill are added or put on these
25 corner houses.

1 There would still be a rear yard. It would be the
2 same depth as the current rear yard, but it's just that it would
3 be filled up on the second floor as well.

4 The rear yard, of course, is less than the 20 feet
5 required, but it is in proportion to the other rear yards on
6 corner properties, some of which in fact don't have any rear
7 yards. They but up sideways against the houses, which then face
8 the smaller street.

9 I have been representing perhaps a dozen cases
10 over the years for the BZA, and I am just drawing from my
11 familiarity with the cases that I know about to develop and
12 present some cases which are similar, and which seem to me to
13 have argued the same point; that the house is abnormally small.

14 It is smaller than all the neighborhood houses,
15 and in order to accommodate the normal or what people have come
16 to expect as normal living arrangements, the property, having
17 been cut down, there needs to be a variance.

18 This here was a house, and it was two rooms deep
19 again, and it was in Capitol Hill. The owner of the property
20 also owned this property here, and what they proposed to do was
21 to take the back end of this property here, attach it to here,
22 and then add a third room here.

23 This was a complicated variance, and the hardship
24 was that the house was too small basically. And this was
25 permitted, and this was granted a zoning variance.

1 Here is another house, 101 Twelfth Street,
2 Southeast, and this was actually a large house, one of the
3 largest houses on Capitol Hill. It had, like the Sells, a small
4 kitchen, and they wanted an informal space.

5 They already occupied well over 60 percent of the
6 lot. They wanted to project a bay into that space, and by --

7 CHAIRPERSON SOCKWELL: Mr. Houston, the problem
8 that I have is that while you are showing the descriptive of the
9 property, and how it was handled architecturally, the supporting
10 documentation that would have determined whether or not this
11 board granted an approval is not part of what you are showing.

12 And I feel as representations that's all well and
13 good, but you cannot use them to sway the opinion of this board
14 without having the relevant documentation for the associated
15 application for variances, and special exceptions.

16 And since those were not submitted to the Board, I
17 am unwilling to entertain all the description of those. I think
18 if you are presenting your case based upon the specific
19 conditions of your site, then that is what you really need to go
20 on.

21 I mean, we won't routinely approve something just
22 because you show pictures that anybody else did it.

23 MR. HOUSTON: These are all different, of course,
24 and I am just showing this kind of reasoning. Now, I have been
25 able to find the backup papers on one of the cases, which I am

1 happy to submit. I have not been able to get them for the other
2 two cases.

3 The one case that I was able to locate the papers
4 was for the first case that I presented, which is the McCalls.
5 Now, if you like, I can --

6 CHAIRPERSON SOCKWELL: Well, unfortunately, the --

7 MR. HOUSTON: And also a letter from the McCalls
8 confirming.

9 CHAIRPERSON SOCKWELL: Well, we certainly
10 appreciate letters from the adjacent property owners, and nearby
11 property owners, in support of an application.

12 And you have presented us with a sufficient number
13 of signatures on petitions for us to believe that there is a
14 significant amount of support for your project.

15 But I would prefer that you just complete the
16 descriptions and discussions as they relate to this site, and
17 then we will be able to question you and Mr. Sell and Mrs. Sell,
18 as necessary.

19 MR. HOUSTON: Okay. Fine. I was also going to
20 present -- and this may be in your opinion irrelevant -- a public
21 housing project.

22 MR. SELL: Let's go on.

23 CHAIRPERSON SOCKWELL: Yes, I don't think that a
24 two-room, 30.5 foot deep house, and a public housing project are
25 particularly relevant to one another. But if you can find a way

1 to really make that stick, I would be more than willing to listen
2 to you, but only for a minute.

3 MR. HOUSTON: Very briefly, the D.C. Public
4 Housing --

5 MR. SELL: Andre, let's move to the next point.

6 MR. HOUSTON: Let me just be brief.

7 MR. SELL: Andre, please, I think the Chairman has
8 indicated what he wants to hear from us. If I may just take a
9 moment. My wife and I moved to The Hill in 1995, to Capitol
10 Hill, and we purchased our house in 1996.

11 And we subsequently began a family, and we decided
12 that we wanted to try to proceed with this case to build on to
13 our house, but we knew that there was no way that we could
14 possibly succeed in this endeavor without the full, and complete,
15 and total support of your neighborhood.

16 And so we sent a letter, which is shown as Exhibit
17 B in this packet of material, to all of the neighbors in the
18 adjoining blocks. We are on a corner, and so we went a full
19 block in every direction. It was well over 60 houses.

20 And we delivered to them the letter, as well as a
21 copy of the schematic of the before picture, as well as the
22 after, and pictures of the floor plans.

23 And we got -- and we have included in here the active support of
24 57 of our neighbors.

25 I am aware of no one -- none of our adjoining

1 neighbors were opposed at all, and in fact a number of the
2 neighbors made very -- in addition to signing, pointed out
3 important aspects of -- positive aspects of our proposal in their
4 comments.

5 Included in our support for this is both of our
6 adjoining neighbors. Let's see. Our adjoining neighbor
7 immediately to the north, which would arguably be the most
8 impacted of all of our neighbors, and he signed off on the
9 petitioner, quote, as adjacent and most affected owner, I
10 completely support the proposed addition and variance. That is
11 on page 8.

12 And then we also obtained the support of our
13 neighbors immediately to the east, Jeff and Jane Renard. And the
14 way that we got their support I think is really indicative of how
15 this process is supposed to work.

16 We sent them the information and they reviewed it,
17 and they came over and asked to sit down with Alisa and I, and
18 they raised an issue on the schematic as to our two windows on
19 the north side of the house.

20 And they were concerned about the ability, the
21 possibility, that we could look into the back yard of their home
22 through these windows. And as soon as they raised it with us, we
23 said that you are absolutely right. That is an excellent
24 suggestion.

25 And we modified our plans to eliminate these two

1 north windows, and they immediately supported our proposal. They
2 have a letter -- their letter that they sent to us is in the
3 packet as Exhibit E.

4 And I think one of the things about our house that
5 makes our case particularly unique is in a review of all of the
6 corner properties. Our house was built circa 1860, approximately
7 90 years before the current zoning regulations came into effect.

8 And it was an original -- it is an original house
9 on our lot. Many of the houses in our neighborhood are second
10 houses. They were built during the period of 1870 to 1910 when
11 these brick Victorian rowhouses were built.

12 And so had our house been built during that
13 period, I think it was almost certainly that it would have been
14 built to occupy the lot, and fill out the urban environment as
15 Mr. Houston has explained, and I feel that is the appropriate
16 intent of the zoning violations.

17 But it wasn't. It was built much earlier, and
18 once the --

19 CHAIRPERSON SOCKWELL: You mean the zoning
20 regulations. You said violations. You didn't mean that.

21 MR. SELL: I hope that wasn't a Freudian slip.
22 But thank you. And so as a result of the application of the
23 zoning regulations in the 1950s, our house has really been
24 limited in size, and has not been able to -- no one has been able
25 to increase it to make it comparable to most of the other houses

1 in the neighborhood.

2 CHAIRPERSON SOCKWELL: Let me say this. Not
3 knowing whether anyone has applied to the Board of Zoning
4 Adjustment for such a variance since the time that such variances
5 have been available, I don't know that I can honestly say or you
6 can say that it has not been possible. It just has not been
7 attempted.

8 And I am just making that statement as well with
9 regard to Mr. Houston's assertion that a basement wouldn't be
10 possible because you couldn't get light to it. You actually
11 could create light wells and have windows.

12 MR. SELL: This is true.

13 CHAIRPERSON SOCKWELL: And with a house as old as
14 this one, I would be far less likely to want to expose the
15 foundations to the extent that one would create a basement under
16 what you have, which I assume is probably not really even much
17 of a crawl space, if there is one.

18 MR. SELL: Well, there is a very small basement
19 underneath the front room of the house and then we have about a
20 foot to a foot and a half of crawl space under the back end. It
21 is a sloping lot and so it gets less crawl space towards the very
22 back of the house.

23 CHAIRPERSON SOCKWELL: But I wouldn't want to
24 expose the foundations to that kind of change necessarily. And I
25 will without trying to expedite this thing along, I would say

1 that with regard to your lot, and the fact that it is an 800 lot
2 number, and that in subdividing it you are not extending nor
3 changing the dimensions or size of that lot, but you have to have
4 a record lot in order to do an addition, or build on the property
5 in the first place unless there is a specific prohibition to the
6 recordation of record lots for that particular piece of property.

7 So I am of the impression that your bay window,
8 which is not our responsibility because it would be in public
9 space, meets the dimensional requirements of bay windows,
10 although I might have one question about it, because it is not
11 our responsibility.

12 But I don't personally have a problem with the
13 extension of the property. You have owned it and lived in it as
14 it is, am I correct?

15 MR. SELL: That's correct. For over 4-1/2 years,
16 right.

17 CHAIRPERSON SOCKWELL: So that tells me the
18 circumstance of you having bought it and not having bought it as
19 an investment property. So if you can just wrap up your
20 testimony, I will find out if we have anything other than the ANC
21 report to go forward with.

22 MR. SELL: In wrapping up, I will summarize with
23 just a few points. We did present our case to the ANC in January
24 of this year, and they voted to support the variance by a vote of
25 9 in favor, and 1 opposed, and 3 abstaining.

1 We have also presented our case and discussed it
2 with the Capitol Hill Restoration Society, which has taken a
3 neutral position on our case. And to summarize, and I will ask
4 Alisa and Andre to summarize as well --

5 CHAIRPERSON SOCKWELL: Quickly.

6 MR. SELL: I think the case is unique, and it will
7 case no adverse impact to the neighborhood, and I think it will
8 be greatly supported by the neighborhood.

9 And what we are asking -- the adjustment that we
10 are asking for actually furthers the intent of the zoning
11 regulations. Thank you.

12 CHAIRPERSON SOCKWELL: Thank you.

13 MS. SELL: I have nothing to add.

14 CHAIRPERSON SOCKWELL: Mr. Houston.

15 MR. HOUSTON: Nothing further.

16 CHAIRPERSON SOCKWELL: Board Members.

17 VICE CHAIRPERSON REID: I have a question. When
18 you purchased your house, obviously you were aware of the size of
19 it, right? When you purchased it, did you anticipate that you
20 would have this problem?

21 MR. SELL: Well, certainly perhaps we should have
22 anticipated it. My wife and I were -- well, we didn't have any
23 children at the time, and we were both working.

24 She now works from the home, and we now have
25 children, and so our circumstances have changed. But we

1 certainly knew exactly what we were buying when we bought it.

2 VICE CHAIRPERSON REID: Now, in your application,
3 in regard to the three-prong test that you must meet in order to
4 get the relief that you are asking for, you suggest that you
5 should obtain this variance because there is an unusually small
6 structure on an unusually small corner lot.

7 Well, I can sort of go along with that, because
8 you have demonstrated that there is some uniqueness to that
9 particular site. Now, the practical hardship is that you are
10 saying that your practical hardship is that you cannot expand to
11 a normal Zone 5 under the current zoning regulations.

12 So I am still a little hesitant about that aspect
13 of the test, because you have been living there and you are
14 saying that the idea is that a variance is so that you could
15 show why you could not comply with the existing zoning
16 regulations. Why can't you?

17 MR. SELL: If I may, the practical --

18 VICE CHAIRPERSON REID: What is going to cause
19 practical difficulties to comply with it I guess is a better
20 question?

21 MR. SELL: Well, the practical difficulty as we
22 believe there to be is simply by virtue of the fact of the time
23 that our house was built, and that it wasn't built to occupy a
24 greater percentage of the lot, that the house is uniquely small.

25 And the way that impacts us directly is in a

1 dramatically reduced area for storage, a limitation on the number
2 of bedrooms, which is two; and no room or no space for a home
3 office; and no space for any informal -- there is no informal
4 living area on the first floor. Just the formal front room.

5 We could certainly try to within the confines of
6 our current footprint create that space, but in our opinion it
7 would do such tremendous damage to try and further subdivide and
8 cut up the small space that we have, that that operates as a
9 practical hardship to us under the way that the zoning
10 regulations read.

11 VICE CHAIRPERSON REID: Okay.

12 MR. SELL: Under the --

13 CHAIRPERSON SOCKWELL: To put a little perspective
14 on this, in an R-4 district, you would be allowed normally 60
15 percent of your lot as occupiable, and you would be required to
16 have a 20 foot minimum rear yard.

17 You would be required to have a side yard, except
18 where attached, and as a corner, you wouldn't be required to have
19 a side yard on the 5th Street side of your property. The current
20 percentage of lot occupancy is 56 percent by my calculations.

21 MR. HOUSTON: I think it is greater.

22 MR. SELL: Actually, I believe it is 73 or 74
23 percent?

24 CHAIRPERSON SOCKWELL: So, 74? Well, maybe that
25 is -- what is the current square footage of the house?

1 MR. SELL: You mean total square footage or the
2 footprint?

3 CHAIRPERSON SOCKWELL: The footprint.

4 MR. HOUSTON: I think it is summarized on the
5 statement to the BZA.

6 CHAIRPERSON SOCKWELL: I thought that the
7 footprint -- and maybe I am wrong, but I thought --

8 COMMISSIONER MITTEN: The existing is 837, and the
9 proposed is 980 square feet.

10 CHAIRPERSON SOCKWELL: Okay. That's what it is.
11 I didn't read all of one of these notes when I did my
12 calculation, because you already have a one-story addition, or a
13 one-story portion of the house that sticks out.

14 MR. SELL: That's correct.

15 COMMISSIONER MITTEN: Mr. Chairman, maybe I could
16 interject something that would assist in moving this forward,
17 which is the applicant has set the highest standard for
18 themselves that they could, in terms of the variance.

19 And according to 223.1 for additions to single
20 family dwellings under certain sections, and in this case it
21 would be specifically Sections 403 and 404, the variance standard
22 can be reduced to a special exception standard.

23 And I think that even though that is not what they
24 requested, I think it would be appropriate in this case to not
25 hold them to a standard that they are really not obligated to

1 comply with.

2 So the special exception standard, I think, should
3 apply to the variances from 403 and 404, and it is only the
4 relief from Section 2001.3 related to additions to non-conforming
5 structures that we really need to set this high standard.

6 VICE CHAIRPERSON REID: Did they self-certify?

7 CHAIRPERSON SOCKWELL: Actually, I was fully aware
8 of that. I was taking it in the direction that they had
9 approached it, rather than going directly into that section,
10 using Section 223. I assume that Mr. Houston is aware of 223.

11 MR. HOUSTON: Yes.

12 CHAIRPERSON SOCKWELL: But the issue is that they
13 are apparently over the -- yes, they are occupying around 73
14 percent of the site already, which means that it is completely
15 non-conforming.

16 The minimum sized lot would be 1,800 square feet,
17 and theirs is 1, 238, da da, da da, da da. So they are asking
18 for approximately 80 percent coverage; is that correct?

19 MR. SELL: I believe it is approximately 84
20 percent.

21 CHAIRPERSON SOCKWELL: So, 84 percent.

22 So of the three lots that are connected, and which are very
23 similar in total dimensional area to the single lots that are
24 adjacent to it going down A Street, yours is the only corner lot.

25 Yours certainly abuts in certain ways the

1 adjacent property, and I don't have a real problem with seeing
2 the uniqueness of this property in regard to the fact that back
3 in 1860 when this house was built it met whatever needs it should
4 have.

5 It predates the zoning code, and it predates the
6 zoning Act, and it predates zoning. So the practical difficulty
7 of achieving a basement or full cellar excavation.

8 I can relate to as much because of the age and
9 type of foundation that one might find with this house, as with
10 anything else. And Capitol Hill is bottom land, and so there is
11 potential for things to be difficult and unique in that respect.

12 And I certainly don't see any particular negative
13 aspects of this proposal under the variance procedure
14 requirements, the three-prong test, that would negatively impact
15 the neighborhood.

16 In fact, as far as I am concerned, because it
17 improves the Fifth Street facade, and makes it a more prominent
18 and decorative facade with the bay window, that it certainly is
19 an upgrade to the look of that.

20 So from my point of view, with the support of the
21 Advisory Neighborhood Commission report, which we have in the
22 file, I would be willing to accept without using Section 223 in
23 this case, because you filed under a different section. So that
24 is why I didn't go to 223.

25 MS. SANSONE: Mr. Chair, I wasn't clear if you

1 meant that under Section 223 was the lot occupancy requirement,
2 and that they really wouldn't qualify for the special exception.

3 CHAIRPERSON SOCKWELL: Well, under Section 223,
4 you cannot occupy more than 50 percent of the lot.

5 MS. SANSONE: And therefore they would need the
6 variance.

7 CHAIRPERSON SOCKWELL: Yes. So I would ask Ms.
8 Renshaw, since we have no witnesses in opposition, and we
9 certainly don't have any witnesses in support that haven't
10 written their supporting letters and that haven't been submitted,
11 then I would ask Ms. Renshaw to read the ANC report.

12 BOARD MEMBER RENSHAW: We have a request from the
13 ANC-6B Chair, Kenon Jarboe, to waive the rules to receive the
14 report after the normal deadline.

15 VICE CHAIRPERSON REID: When did we get a copy of
16 that?

17 BOARD MEMBER RENSHAW: We got a copy today, and it
18 is Kenon P. Jarboe, J-A-R-B-O-E, who is the Chair.

19 CHAIRPERSON SOCKWELL: All right. And is there
20 any opposition to accepting the late filing of the Advisory
21 Neighborhood Commission report?

22 COMMISSIONER MITTEN: No, Mr. Chairman.

23 CHAIRPERSON SOCKWELL: Thank you. Then we will
24 waive the rules and accept the report.

25 BOARD MEMBER RENSHAW: The letter is dated

1 February 12th, 2001, and again it is signed by the Chair, Kenon
2 P. Jarboe, and he states that a properly noticed meeting on
3 January 9th, 2001, ANC-6B voted 9 to 4; one opposed, and three
4 not voting, to support the application 16616.

5 He explains that there are 13 single member
6 districts in 6B and that a quorum is seven, and again he
7 requested a waiver of the rules, which we have just done.

8 CHAIRPERSON SOCKWELL: Thank you very much. You
9 have survived the scrutiny of a very conscience advisory
10 neighborhood commission group. I think by abstaining from voting
11 rather than voting against you they have reserved their right to
12 object without standing for unanimous support.

13 I mean, they have done it in a benign way, and not
14 saying no, but having reasons for not saying yes. I don't have
15 or I don't believe that you have not met your burden of proof,
16 and I ask my board members to think about that while I ask for
17 closing remarks from the applicant.

18 You may say please approve. We would approve a
19 bench decision and summary order.

20 MR. HOUSTON: We would request a bench decision
21 and summary order since there is no opposition.

22 CHAIRPERSON SOCKWELL: Thank you.

23 COMMISSIONER MITTEN: Mr. Chairman, I would move
24 for approval of this application.

25 CHAIRPERSON SOCKWELL: I will second the motion.

1 Any discussion?

2 VICE CHAIRPERSON REID: Did we change it to a
3 special exception?

4 CHAIRPERSON SOCKWELL: No, it is a variance.

5 VICE CHAIRPERSON REID: So we are going to keep it
6 as that?

7 CHAIRPERSON SOCKWELL: Yes, we have to. All in
8 favor?

9 (A chorus of ayes.)

10 CHAIRPERSON SOCKWELL: Opposed?

11 (No audible response.)

12 CHAIRPERSON SOCKWELL: Then your addition has been
13 approved. Thank you very much for your time. Your order will be
14 available within about 2 weeks, and at that point, feel free to
15 proceed with your permit.

16 MR. SELL: Thank you very much.

17 MS. BAILEY: The staff will record the vote as
18 four to zero to approve the application. Motion made by Mrs.
19 Mitten, and seconded by Mr. Sockwell. Ms. Reid and Ms. Renshaw
20 to approve. Ms. Hinton not present, and not voting.

21 CHAIRPERSON SOCKWELL: Are there any other cases
22 on the morning agenda?

23 MS. BAILEY: No, Mr. Chairman, there are no
24 further cases.

25 CHAIRPERSON SOCKWELL: Then the morning hearing is

1 adjourned.

2 (Whereupon, the hearing was recessed at 12:30

3 p.m.)

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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:15 p.m.)

CHAIRPERSON SOCKWELL: The hearing will please come to order. Good afternoon, ladies and gentlemen. This is the February 13th public hearing of the Board of Zoning Adjustment for the District of Columbia.

My name is Robert Sockwell, Chairperson. Joining me today is Sheila Cross Reid, Vice Chair, and Ann Renshaw to my left, and representing the Zoning Commission is Carol Mitten.

Copies of today's hearing agenda are available to you. They are located to my left near the door. All persons planning to testify either in favor or in opposition are to fill out two witness cards.

These cards are located on each end of the table in front of us. Upon coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right.

The order of procedure for special exceptions and variances is, one, statement and witnesses of the applicant; two, government reports, including the Office of Planning, the Department of Public Works, et al.

Three, the report of the Advisory Neighborhood Commission, the ANC. Four, parties or persons in support. Five, parties or persons in opposition; and six, closing remarks by the applicant. Cross-examination of witnesses is permitted by the

1 applicant or parties.

2 The ANC within which the property is located is
3 automatically a party in the case. The record will be closed at
4 the conclusion of each case, except for any material specifically
5 requested by the Board, and the staff will specify at the end of
6 the hearing exactly what is expected.

7 The decision of the Board in these contested cases
8 must be based exclusively on the public record. To avoid any
9 appearance to the contrary, the Board requests that persons
10 present not engage the Members of the Board in conversation.

11 Please turn off all beepers and cell phones, or
12 set them to vibrate at this time so as not to disrupt these
13 proceedings. The Board will make every effort to conclude the
14 public hearing as near as possible to 6:00 p.m.

15 If the afternoon cases are not completed by 6:00
16 p.m., the Board will assess whether it can complete the pending
17 cases or cases remaining on the agenda.

18 At this time the Board will consider any
19 preliminary matters. Preliminary matters are those matters which
20 relate to whether a case will or should be heard today, such as
21 requests for postponements, continuances, or withdrawals.

22 Or whether proper and adequate notice of the
23 hearing has been given. If you are not prepared to go forward
24 with the case today or if you believe that the Board should not
25 proceed, now is the time to raise such a matter. Does the staff

1 have any preliminary matters?

2 MS. BAILEY: Yes, we do, Mr. Chairman. The first
3 preliminary matter has to do with Application Number 16407, and
4 this is of the Capital Hill Group. The applicant in that case is
5 sitting before the Board, and you may make your request at this
6 time.

7 MS. ZIGNER: Good afternoon, Chairman Sockwell and
8 Members of the BZA. My name is Jeannine Rustad Zigner, and I am
9 with Robins, Kaplan, Miller & Ciresi, and we are here
10 representing the Capital Hill Group.

11 We are requesting to withdraw our request for the
12 modification, and in light of the order that was issued in this
13 matter, BZA Order 16407A, we would ask that that order to
14 vacated, which had previously granted the modification.

15 CHAIRPERSON SOCKWELL: And the specific reasons
16 for requesting this action by the Board?

17 MS. ZIGNER: The property affected by the
18 modification is being sold, and closing is April 1st, 2001. The
19 property, which contains the hospital site, is scheduled for
20 closing in two phases, which will be July 2001 for the north
21 tower, I believe, and then December 2001.

22 CHAIRPERSON SOCKWELL: So the elements of the BZA
23 order are no longer applicable to the use that will be proposed,
24 and the relief requested is no longer applicable to the intention
25 of the use of the property?

1 MS. ZIGNER: Yes, that is correct.

2 CHAIRPERSON SOCKWELL: Under the circumstances, it
3 seems that there is no reason to burden the record of issued
4 orders with one that is not germane to what will be done with the
5 property, and in such a way the property's incumbrance for that
6 purpose is no longer valid.

7 So I would suggest to my fellow board members that
8 if we do not have a specific reason for not vacating BZA Order
9 Number 16407A, that we move to do such.

10 BOARD MEMBER RENSHAW: I second the motion.

11 CHAIRPERSON SOCKWELL: Any discussion?

12 (No audible response.)

13 CHAIRPERSON SOCKWELL: All in favor?

14 (A chorus of ayes.)

15 CHAIRPERSON SOCKWELL: The order, BZA Number
16 16407A, is thereby vacated.

17 MS. ZIGNER: Thank you.

18 MS. BAILEY: Mr. Chairman, the next preliminary
19 matter -- excuse me. The staff will record the vote as four to
20 zero to vacate the order in 16407A, motion made by Mr. Sockwell,
21 and seconded by Mrs. Renshaw, and Ms. Mitten and Ms. Reid to
22 approve vacating the order.

23 CHAIRPERSON SOCKWELL: Now, staff, that
24 automatically --

25 MS. PRUITT: The case before us, yes, that's

1 correct.

2 CHAIRPERSON SOCKWELL: -- withdraws the case
3 before us.

4 MS. PRUITT: Yes. So there will be no further
5 action on this case.

6 CHAIRPERSON SOCKWELL: Right. Thank you.

7 MS. BAILEY: The second preliminary matter, Mr.
8 Chairman, has to do with Application Number 16666. This property
9 was not posted. Is there anyone in the audience associated with
10 16666? If so, would you please come to the table.

11 (Brief Pause.)

12 MS. BAILEY: Would you please explain to the Board
13 why your property was not posted?

14 MR. LEONARD: Yes.

15 MS. BAILEY: Identify yourself, please.

16 MR. LEONARD: My name is Paul Leonard, and I am
17 the owner of the property. The letter that we received on
18 December 21st from the Board did not include the notice that it
19 must be posted, and a different letter went to our contractor.

20 And we obviously had a miscommunication with him,
21 because he said did you receive the letter of the 21st, and we
22 said yes, and he read us the first two paragraphs, which were
23 identical, and he didn't get to the bottom saying that a sign
24 must be obtained from the Office of the Board and posted.

25 So we had a different letter than he did, and we

1 did not know that we had to post the sign until we received a
2 call yesterday from the office here saying that we should have
3 posted a sign.

4 We had submitted letters of approval from our
5 neighbors to the ANC Board previously, but we did not post the
6 sign.

7 CHAIRPERSON SOCKWELL: I don't believe that we can
8 go forward with a case if it has not been posted.

9 MS. PRUITT: There are a couple of alternatives,
10 sir. This has happened several times or a couple of times in the
11 past. I mean, there are some things that slip. We can have the
12 hearing, and leave the record open, and post it for 15 days and
13 allow people to comment.

14 And then that way you still have your 15 day
15 notice. I mean, we do three types of posting and so that if one
16 does fall through, there is sort of a second and third, which is
17 the mailing and the registrar.

18 CHAIRPERSON SOCKWELL: Would we be able to vote on
19 the case prior to the expiration of the 15 day posting period?

20 MS. PRUITT: You probably wouldn't want to.

21 CHAIRPERSON SOCKWELL: Yes, because there might be
22 opposition, and they or we would not have a chance to cross-
23 examine them.

24 MS. PRUITT: Correct. But at least this way you
25 could have the hearing, and I gathered from what they are saying

1 that there may not be much opposition. It may be just a matter
2 of procedurally allowing people there to write and to comment if
3 they need to.

4 MR. LEONARD: That is what we believe the case is.

5 BOARD MEMBER RENSHAW: Mr. Chairman, I just wanted
6 to point out that this matter came before ANC-3G, and I recused
7 myself at the ANC level. I will state that there was no
8 opposition.

9 CHAIRPERSON SOCKWELL: Thank you. Ms. Reid and
10 Ms. Mitten?

11 COMMISSIONER MITTEN: I think the way of
12 proceeding that Ms. Pruitt has suggested would be fair to
13 everybody, and it won't inordinately delay these folks getting a
14 decision.

15 So I would go for posting the property after the
16 hearing, and keeping the record open, and delaying our decision
17 until after the posting period is completed.

18 VICE CHAIRPERSON REID: I agree. This is what Ms.
19 Pruitt said, and this has been done previously. So basically it
20 is the normal method in which we handle situations that come up
21 like this, and so it is not uncommon.

22 CHAIRPERSON SOCKWELL: All right. Then we may
23 proceed with the case.

24 VICE CHAIRPERSON REID: We need to take a vote.

25 CHAIRPERSON SOCKWELL: Oh, I'm sorry. Excuse me.

1 I move that we proceed with the case, and a decision to be
2 delayed until after the 15 day posting period and required
3 reporting period.

4 BOARD MEMBER RENSHAW: Second.

5 CHAIRPERSON SOCKWELL: All in favor?

6 (A chorus of ayes.)

7 MS. BAILEY: The staff will record the vote as
8 four to zero to leave the record open, and hear the case today.
9 However, to leave the record open for a decision, and for
10 additional comments to come in after the posting period has
11 expired, and those are all the preliminary matters the staff has,
12 Mr. Chairman.

13 CHAIRPERSON SOCKWELL: Thank you. Then we will
14 proceed with the case. You filed your witness cards and you have
15 been sworn in; yes or no?

16 MR. LEONARD: No.

17 COMMISSIONER MITTEN: She has to call the case,
18 too.

19 MS. BAILEY: Application Number 16666 of Paul and
20 Susan Leonard, pursuant to 11 DCMR 3104.1, for a special
21 exception from Subsection 223.1 to allow a nonconforming rear
22 yard pursuant to Section 404, for an addition to an existing
23 single-family dwelling in an R-1-B District at premises 5910
24 Thirty-First Place, Northwest, Square 2330, Lot 19.

25 (The witness was sworn.)

1 (Whereupon, the witness was sworn.)

2 MS. BAILEY: Mr. Chairman, as I think was stated
3 earlier, ANC-3G has reviewed this application and is in support
4 of it. We discussed the affidavit and that this project was
5 referred to us from the zoning administrator's office, and that
6 it is now ready to go forward.

7 CHAIRPERSON SOCKWELL: Thank you.
8 And is there anyone here in the room in support of this
9 application?

10 (No audible response.)

11 CHAIRPERSON SOCKWELL: Is there anyone here in
12 opposition to this application?

13 CHAIRPERSON SOCKWELL: Then let us proceed. Thank
14 you.

15 MR. LEONARD: We are requesting a variance to
16 extend the rear portion of the house equal to our current porch,
17 so that it would actually not be any further out than the
18 structure.

19 But because of the way that the alley in this
20 section of 31st Place runs, it technically would need an
21 exception from the 25 feet exception from the alley.

22 But it would not actually extend any further than
23 the existing part of the house, and I can submit the photos, as
24 well as the forms that you already have.

25 CHAIRPERSON SOCKWELL: By the way did you identify

1 yourself?

2 MR. LEONARD: My name is Paul Leonard, and I am
3 the owner of the home, and my wife, Susan, is a co-applicant.

4 CHAIRPERSON SOCKWELL: And your address of record
5 is?

6 MR. LEONARD: It is 5910 Thirty-First Place, the
7 same as the property.

8 CHAIRPERSON SOCKWELL: One of the issues --- let
9 me just state that one of the issues that has been brought up is
10 that this case is being filed as a variance case, and may in fact
11 be a special exception case.

12 COMMISSIONER MITTEN: Mr. Sockwell, I think
13 actually that is in reverse.

14 CHAIRPERSON SOCKWELL: It was filed as a special
15 exception and is a variance?

16 COMMISSIONER MITTEN: Yes. There is a variance
17 required that unfortunately the zoning administrator did not call
18 out in his referral, but it relates to the fact that this is a
19 non-conforming lot.

20 CHAIRPERSON SOCKWELL: Yes.

21 COMMISSIONER MITTEN: And there is a variance
22 required from Section 2001.3, and we probably need to extract
23 some testimony on that.

24 CHAIRPERSON SOCKWELL: The minimum lot size on
25 this zone is 5,000 and your lot is just under 4,680 square feet.

1 Okay.

2 COMMISSIONER MITTEN: Perhaps it might be helpful
3 since these folks were not aware of the -- they probably don't
4 appreciate the distinction between the special exceptions
5 standard and the variance standard. Maybe if you would explain
6 that.

7 CHAIRPERSON SOCKWELL: The variance standard is a
8 three-pronged test. It starts with the special circumstances of
9 your lot due to exceptional narrowness, and unusual shape, or
10 other exceptional condition of your lot, and that you require
11 relief from the ordinance.

12 Then there is a practical difficulty standpoint,
13 which is that you have a practical difficulty accomplishing that
14 which would be normal to your use of the property as a result of
15 not being guaranteed or given a relief from this particular
16 requirement.

17 And then there is the third test, which is the
18 least difficult sometimes, which is no adverse effect to the
19 surrounding community, and in general compliance with the zoning
20 map and plan.

21 VICE CHAIRPERSON REID: Let me understand
22 something. Ms. Pruitt, there have been times before when the
23 zoning administrator has given a letter requesting relief, and
24 when there is a situation where we went from a more strict relief
25 to a lesser relief, then my understanding was that we could do

1 that.

2 But I have not known of, or is it proper, or is it
3 within our perview to be able to require that they apply now for
4 a stricter relief than what was proffered from the zoning
5 administrator. Can we do that?

6 MS. PRUITT: We talked a little about this with
7 Corporation Counsel, and this 2001.2 is a real technical section.

8 In fact, there have been some discussions between the ZA, and
9 this office, and OPF, on how you really work the special
10 exception with that, because they seem to be a little contrary to
11 each other.

12 The special exception was designed to allow the
13 homeowners to make moderate changes to their houses, where they
14 couldn't actually hit the strict variance rule. But then you
15 stick another variance on them and it makes no sense.

16 So in talking with Corporation Counsel, we believe
17 that we can amend this application for this one technical
18 section, and we can go forward without it having to be
19 advertised. Now, it is going to be required.

20 CHAIRPERSON SOCKWELL: So you are saying that you
21 feel that we can go forward without readvertising. In previous
22 situations, we have discussed the fact that when the relief
23 requested is more severe that the readvertising of the case is
24 more appropriate because --

25 MS. PRUITT: Well, the advertisement left out that

1 one section, but if you read it, it tells you exactly what is
2 planned. You know, to allow a nonconforming rear yard pursuant
3 to or in addition to an existing single family dwelling.

4 So that if anybody read that, they knew exactly
5 what was going to happen to the house, and whether it was going
6 to be under a special exception or a variance. These people are
7 going to make an addition to a nonconforming house.

8 And that is normally what we really try to make
9 sure, is that the public understands what is going to happen, and
10 so if they have comments or concerns about that, they can come
11 down and then comment on that way. And we are leaving the record
12 open, too. So --

13 CHAIRPERSON SOCKWELL: Well, the one issue is that
14 the general public doesn't always know the difference between a
15 special exception and a variance. But generally the attorneys
16 who may represent the elements of the general public do.

17 And they are aware that there is a three-prong
18 test for variances, and a much less difficult method by which
19 special exceptions are approved, because they are primarily
20 based upon the lack of negative impacts to the surrounding
21 community, and neighbors, and what not.

22 But the variance requires you to prove a
23 determination of need that is specifically within the code as a
24 more specific test.

25 VICE CHAIRPERSON REID: Another aspect of that,

1 Mr. Chairman, if I may, is the preparation of the applicant that
2 comes before us to make a case for a more difficult test, and
3 their ability to have had to adequately prepare themselves, as
4 opposed to coming in here and saying you have another difficult
5 test and that you just have to wing it. I don't know if that is
6 appropriate.

7 CHAIRPERSON SOCKWELL: Well, that as well is a
8 very important point that Ms. Reid has made. If you know what
9 the test is, and you have had a chance to think about it, and
10 prepare your testimony to respond to those three elements, then
11 it makes you much more able to determine even before you come
12 before us actually whether or not you have got a good shot at it
13 or not.

14 VICE CHAIRPERSON REID: Well, I think it is
15 appropriate to ask of the applicant if in fact they understand
16 and if they feel comfortable going forward.

17 MS. PRUITT: May I make a suggestion?

18 VICE CHAIRPERSON REID: Mr. Chairman, the Leonards
19 should have a copy of this regulation. Would the staff provide
20 that for them.

21 MS. PRUITT: Mr. Chairman, may I make a
22 suggestion? You have another case that can go forward, and maybe
23 staff can -- we can table this for a while, and the staff can
24 talk to them, and see if they understand exactly what needs to be
25 done.

1 And if they think they can go forward today, fine,
2 and maybe we can help them in that way, and at the same time hear
3 the other case. If not, we can deal with it --

4 CHAIRPERSON SOCKWELL: That sounds like a very
5 good suggestion. And Ms. Reid is trying to help you with
6 understanding what it is that brings you before us so that you
7 have the best chance possible of being successful before this
8 Board.

9 VICE CHAIRPERSON REID: I would like to hear from
10 them also.

11 CHAIRPERSON SOCKWELL: Yes, and if you feel that
12 you would want to take the time that is required to process
13 another case on the agenda to look at the requirements and
14 consider how you would respond to us, we would be more than happy
15 to give you that opportunity.

16 MR. LEONARD: So, Mr. Chairman, you are saying
17 that we do have to respond to the variance test, as opposed to
18 the special exception?

19 CHAIRPERSON SOCKWELL: Yes, because your lot is a
20 non-conforming lot. Your use is a conforming use, but you have a
21 non-conforming condition, and those are regulated under a
22 different section, under Chapter 20 requirements; a nonconforming
23 lot devoted to conforming uses.

24 MR. LEONARD: So we would have a discussion with
25 Ms. Pruitt about what the standard is for --

1 CHAIRPERSON SOCKWELL: Or another staff member who
2 would walk you through what you need to respond to, or the way in
3 which you need to be able to present yourself. Would you want to
4 take that opportunity?

5 MR. LEONARD: Yes.

6 CHAIRPERSON SOCKWELL: Okay. Then I would move
7 that we table this case for the opportunity of staff to advise
8 the applicant.

9 COMMISSIONER MITTEN: I second that.

10 CHAIRPERSON SOCKWELL: All in favor?

11 (A chorus of ayes.)

12 CHAIRPERSON SOCKWELL: Thank you very much.

13 (Whereupon, a recess was taken at 1:33 p.m., and
14 the hearing was called back to order at 1:40 p.m.)

15 CHAIRPERSON SOCKWELL: We apologize. We have been
16 trying to make sure that a relief requested issue was solved with
17 the previous case, and I think we have come to a conclusion that
18 the modification that we were considering is not necessary.

19 With your indulgence, we would like to pull them
20 back up and it is not going to take a long time to do them. I
21 apologize for delaying you. Ms. Bailey, would you call the case,
22 please.

23 MS. BAILEY: Application Number 16667, of Ben and
24 Leslie Page, pursuant to 11 DCMR 3103.2, for a variance under
25 Subsection 404.1, from the rear yard setback requirements and

1 Subsection 403.2, from the allowable lot occupancy to allow an
2 addition to an existing single-family dwelling in an R-1-B
3 district at premises 4631 Verplanck Place, Northwest, Square
4 1554, Lot 34. Please stand to take the oath for those persons
5 wishing to testify.

6 (All witnesses were sworn.)

7 MS. BAILEY: Mr. Chairman, just a couple of notes
8 on this project. The property was posted properly. However, the
9 affidavit of posting was filed one day late. I don't think there
10 is anyone in the audience who is associated with this case that
11 that would affect, but it should be noted.

12 And then lastly, Mr. Chairman, Ms. Hicks will be
13 representing the applicants, or in-part representing the
14 applicants. And I have asked her to submit a letter of
15 authorization from the applicants, and I do have that with me.
16 And with that said the case is now ready to go forward.

17 CHAIRPERSON SOCKWELL: Thank you. There is one
18 question that I have as we start, which is with regard to the
19 relief requested, the rear yard variance that is being requested
20 is per the proposed -- the location of the proposed addition?

21 MS. HICKS: Yes.

22 CHAIRPERSON SOCKWELL: But the property is
23 addressed on the Verplanck side, and therefore, because the side
24 yard in this case to me, perpendicular to the address side of the
25 building, would be actually along 47th Street.

1 The rear yard is the existing condition on the
2 year face of the house on the face opposite the address side, and
3 that in reality you are building into a side yard, the opposite
4 side yard, rather than truly into the rear yard.

5 MS. HICKS: For measurement purposes on a corner
6 lot, you have the option of calling either side of the street the
7 front, and the depth of the rear yard is always measured at the
8 greatest depth, which is along the Verplanck Street side.

9 CHAIRPERSON SOCKWELL: So you are saying that the
10 address side is not the front of the house?

11 MS. HICKS: No, for measurement purposes the 47th
12 Street side is the front, and opposite the 47th Street side to
13 the rear of the lot where you have the greatest depth, that is
14 considered the rear yard.

15 And along Verplanck Street, you have a side yard,
16 and also you have a setback, and also along the -- well, where
17 you have an adjacent neighbor, and you have a side yard. You
18 have an option when you are on a corner.

19 CHAIRPERSON SOCKWELL: Right. But I was of the
20 assumption that under my experience with the zoning ordinance
21 that wherever you choose your address to be, unless otherwise
22 determined, would in fact be the front of your house.

23 MS. HICKS: No, you consider 47th Street the front
24 of the structure when you are on a corner, and for measurement
25 purposes where the lot gives you the greatest depth, that is what

1 is considered your rear yard.

2 CHAIRPERSON SOCKWELL: Well, lacking anything that
3 -- well, can you cite anything within the zoning ordinance on
4 that?

5 MS. HICKS: Other than 20 years experience doing
6 the computations and calling it that way, that's all I can go on.
7 Let me see if there is anything cited in the definition of a
8 corner, a corner lot.

9 CHAIRPERSON SOCKWELL: You see, lot definition is
10 lot through lot interior, and lot alley lot. You see, under lot
11 width, there is nothing that states that -- and with irregularly
12 shaped lots, there is nothing under lot width that would state
13 that you have to take the largest dimension as your rear yard.

14 And lacking that specific information, it would
15 seem that the address side of the building should be the front of
16 the building, and you couldn't have the address or shouldn't be
17 having the address on your side yard.

18 It should be your front yard, which would
19 determine certain things, but there again if you are without
20 that, I have to rely upon something to make me comfortable about
21 that.

22 COMMISSIONER MORGAN-HINTON: If I could add, Mr.
23 Sockwell -- and hello, Ms. Hicks, it is nice to see you again.

24 MS. HICKS: Yes, thank you.

25 COMMISSIONER MORGAN-HINTON: It has been my

1 experience as Mrs. Hicks has said, that although lots that I have
2 seen have been calculated exactly in that way, and that the
3 deepest portion of the lot is taken as the rear, regardless of
4 where the street address is.

5 But I also find in this case, and it is also
6 compelling, that the actual front of the house is on 47th Street.

7 So --

8 CHAIRPERSON SOCKWELL: Actually the front of the
9 house is on Verplanck.

10 MS. HICKS: The front of the house is on
11 Verplanck, but this is a corner lot, and you have options of
12 placing the entrance either on the 47th Street side, or the
13 Verplanck Street side. But for measurement purposes, the rear
14 yard is always measured at the greatest depth.

15 The issue that I would have is that on the 47th
16 Street side, a side yard would not be required because it is a
17 corner lot.

18 MS. HICKS: That is correct.

19 CHAIRPERSON SOCKWELL: And the house is built
20 fully to the property line.

21 MS. HICKS: The structure is built five feet off
22 of the -- there is a five foot side yard setback from the
23 property line.

24 CHAIRPERSON SOCKWELL: Well, then if that is a
25 five foot side yard setback, then the yard opposite is the rear

1 yard? So you have two side yards now adjacent to one another.

2 MS. HICKS: No, the rear yard is measured back
3 where -- the rear lot line is the angular line along the
4 Verplanck Street side.

5 CHAIRPERSON SOCKWELL: I mean, I admit that the
6 lots are carved in a very unusual manner, and I looked at this in
7 two different locations to be sure that I understood fully what
8 the lots looked like.

9 If in fact as my fellow Board Member states that
10 this is the appropriate approach for this particular residential
11 situation --

12 COMMISSIONER MITTEN: I think I have something to
13 add. I finally found it. Section 404.2 -- well, this is a
14 corner lot, but it says abutting three or more streets.

15 CHAIRPERSON SOCKWELL: Right.

16 COMMISSIONER MITTEN: But I will read it anyway.
17 In the case of a through lot or a corner lot abutting three or
18 more streets, the depth of a rear yard may be measured from the
19 center line of the street abutting the lot at the rear of the
20 structure. And I guess that it might be compelling, in terms of
21 what is the rear.

22 CHAIRPERSON SOCKWELL: And in looking at this lot,
23 I sketched that condition just to see what the permutations might
24 be. Well, under the circumstances, and with no way of being able
25 to refute or to rebut any of the statements of either Ms. Hicks

1 or Ms. Hinton, we will go forward as you proscribed it.

2 MS. HICKS: Could we present the case and get
3 clarification from the zoning administrator's office that this is
4 the way that --

5 CHAIRPERSON SOCKWELL: Yes, we can proceed.

6 VICE CHAIRPERSON REID: I think, Mr. Chairman,
7 that would be the only appropriate thing to do. We have spent
8 over an hour in going back and forth in determining or
9 questioning the letter from the zoning administrator as to what
10 the relief is.

11 And I think that given the --

12 CHAIRPERSON SOCKWELL: And not in your case, but -
13 -

14 VICE CHAIRPERSON REID: Well, in regards to what
15 the relief is in regard to a special exception or a variance. I
16 think that it is known to us Mrs. Hicks' depth of experience, and
17 she has appeared before us many times as an expert witness.

18 And also with the input of our newest or the
19 return of our newest board member, Ms. Hinton -- and I certainly
20 do respect her expertise and knowledge in this regard, that we
21 can just go ahead and proceed, and allow her to put on her case.

22 And we can make a vote at the end on whether or
23 not we thought she did it sufficiently or not, or whatever.

24 CHAIRPERSON SOCKWELL: All right. Please proceed.

25 MS. HICKS: All right. Thank you. My name is

1 Gladys Hicks, and for the record I am a D.C. Zoning Consultant.
2 My office is located at 7710 Merrick Lane, Landover, Maryland
3 20785.

4 I have been asked by Mr. and Mrs. Page, the
5 property owners, to present this case. The Board of Zoning
6 Adjustment Case Number 16667 was filed on November 3rd of the
7 year 2000 to request two variances in order to make an addition
8 to an existing structure.

9 I have with me to my right Mr. Page, one of the
10 property owners, and Mr. Michael Dent of MGD Design, and they
11 will both testify today. The subject property is located in the
12 R-1-B residential zone.

13 The property is located at the intersection of
14 47th and Verplanck Place, Northwest. The existing two-story
15 detached single-family dwelling has an accessory garage.

16 The lot size is 3,008 square feet, and the average
17 width of the lot is 43.1 feet. The rear lot line is at an angle,
18 and the sides of the lot are parallel. The structure was built
19 in 1939.

20 The date of construction predates May 12th, 1958,
21 when the current regulations were put into effect. I would like
22 to question Mr. Page, the homeowner.

23 For the record, could you please state your name
24 and street address?

25 MR. PAGE: Benjamin Page, 4631 Verplanck Place,

1 Northwest.

2 MS. HICKS: And how long have you lived at 4631
3 Verplanck Place, Northwest?

4 MR. PAGE: Since September of 1995.

5 MS. HICKS: When did you decide to make the
6 proposed addition to your residence?

7 MR. PAGE: I am not sure of the pinpoint in time,
8 but it was something that we had thought about for quite a while.
9 It has a very small kitchen, and a very small master bath.

10 But last winter, we found out that we were having
11 our third child, and it really started to seem that the house was
12 going to seem a little cramped and we needed more space. So a
13 definite decision was really last winter.

14 MS. HICKS: When did you find out that you needed
15 variances from the Board of Zoning Adjustment?

16 MR. PAGE: It was last spring after we had had
17 discussions with the designers and decided on what we wanted to
18 do. It was fairly soon after that that we were told that we
19 would need a variance.

20 MS. HICKS: Have you discussed the proposed
21 addition to your residence with the ANC and adjacent neighbors?

22 MR. PAGE: We have discussed it with all of our
23 adjacent neighbors, and all of them said that they didn't have
24 any problem with it. We didn't get it on the agenda for an ANC
25 meeting. We have spoken to the ANC Commissioner several times,

1 but then he turned over at the last election, and we kind of lost
2 track of it.

3 There was a meeting that we could have been on
4 just last week, I think, but when we realized that that was
5 something that we ought to do, it was too late, and the meeting
6 had already passed. So we have not done that.

7 MS. HICKS: Is there any additional information
8 that you would like to share with the Board of Zoning Adjustment
9 regarding the proposed addition to your residence?

10 MR. PAGE: So that we really like the way that our
11 house looks now, and it was very important to us in the design
12 process that we wanted to fit in with the rest of the house.

13 It is going to be the same kind of brick, and it
14 should have hopefully the same kind of look, and not change the
15 look of the house too much. But we did discuss it with all of
16 your neighbors.

17 It is a fairly old house, and so the kitchen and
18 bathroom are not up to date, and the fact that we do have a third
19 child now the house is seeming kind of cramped.

20 MS. HICKS: Okay. I would like to question
21 Michael Dent, the designer. For the record, would you please
22 state your name and occupation.?

23 MR. DENT: Michael Dent, and I am the owner of MGD
24 Design Build.

25 MS. HICKS: And where is MGD Build located?

1 MR. DENT: We are located in Kensington, Maryland.

2 MS. HICKS: And when did you find out that the
3 proposed addition to the Page residence will require a Board of
4 Zoning Adjustment approval in order to build?

5 MR. DENT: Approximately in March of 2000, last
6 year.

7 MS. HICKS: And on the exhibits, on the D.C.
8 Builder's plats, could you please show the location of the
9 existing house and the proposed addition?

10 MR. DENT: What we have done is that in the
11 crisscrossed marked area here that is the addition to the house,
12 and the existing house is located here. So again we are
13 considering the direction to my right, to either the rear yard of
14 the residence. And essentially the addition is to 22 by 11 feet.

15 MS. HICKS: On the additional plat could you show
16 the distance from the rear of the neighbors? There is a 10 foot
17 wide driveway.

18 MR. DENT: Yes. Located on what would be in this
19 area right here on the larger elevation, there is an entrance
20 that comes in from Verplanck Street and enters the garage of the
21 house that is located on 47th Street.

22 It cuts in between two properties, and the
23 applicant's and their neighbor's, and so in addition to the
24 average 20 foot setback that will happen after the addition,
25 there is another 10 foot in between that property.

1 And then the next house to the right here is
2 another 50 feet off of that alley line.

3 MS. HICKS: Okay. Could you show that on the tax
4 assessor's map?

5 MR. DENT: Yes. That is located right -- again
6 where the black dot is, which is the lot that we are located in,
7 and then there is a small strip, 10 foot alley, or a driveway
8 that cuts into the back of the house on 47th Street.

9 And then this lot number 45, which sits next to
10 theirs, before you get to the alley there is another 50 feet
11 before you get to the home, and where the home is located on that
12 lot number 45.

13 MS. HICKS: And approximately what is the setback
14 distance between the adjacent house on the 47th Street side?

15 MR. DENT: The 47th Street side?

16 MS. HICKS: Yes.

17 MR. DENT: I believe it is 10 feet, though it is
18 not marked on this one.

19 MS. HICKS: Would you please go over the
20 architectural plans of the proposed addition?

21 CHAIRPERSON SOCKWELL: Before you go to the
22 architectural plans, Section 2001.3 for nonconforming structures.

23 MS. HICKS: All right. This was not called out in
24 this particular case because the existing structure is conforming
25 as far as existing setbacks. It has a proper rear yard setback,

1 and on the main walls it has the proper side yard setback with
2 the adjacent neighbor.

3 On the 47th Street side and on the corner, there
4 is no side yard setback. If in any way the structure had been --
5 if the existing structure were nonconforming and you wanted to
6 make the structure more nonconforming, I feel like it would have
7 been appropriate to call up Section 2001.3 and screen it for
8 Subsections (a), (b), and (c).

9 CHAIRPERSON SOCKWELL: Well, the minimum lot
10 dimensions in this care are 50 foot width and 5,000 square foot
11 of area. And this lot is 43.1 feet wide, and only 3,000 square
12 feet.

13 MS. HICKS: The lot is not conforming, but the
14 structure is conforming. Section 2001.3, Subsections (a), (b),
15 and (c) pertain to existing nonconforming structures.

16 CHAIRPERSON SOCKWELL: And in the definition under
17 Section 199, regulatory standards that create nonconformity of
18 structures include, but are not limited to, height of building,
19 lot area, width of lot, floor area ratio, lot occupancy, yard
20 court, and residential recreation space requirements.

21 MS. HICKS: These are standards that create
22 nonconformity. The existing structure conforms to lot occupancy,
23 and it conforms to the rear yard setback, and also side yard
24 setbacks, and height requirements.

25 CHAIRPERSON SOCKWELL: But it doesn't conform to

1 the lot area with the lot standard?

2 MS. HICKS: No, those conditions are grandfathered
3 and run inherent with the land, and as a point, the structure was
4 built in 1939.

5 CHAIRPERSON SOCKWELL: But grandfathered for the
6 existence of the structure, and not grandfathered to mean that
7 the structure is not nonconforming.

8 MS. HICKS: I still think the structure conforms,
9 and the use is conforming. It's just that the lot --

10 CHAIRPERSON SOCKWELL: The use does conform.

11 MS. HICKS: The use definitely conforms, and on
12 the calculations the existing structure conforms.

13 CHAIRPERSON SOCKWELL: But the issue is that the
14 restrictions under 2001, nonconforming structures devoted to
15 conforming uses, does state specifically in 2001.1 that the
16 restrictions apply to a nonconforming structure devoted to a
17 conforming use.

18 If one chooses to read the definition of
19 nonconforming structure somewhat literally, and that it states
20 specifically that regulatory standards that create nonconformity
21 of structures include, but are not limited to, such as lot area
22 and width of lot.

23 And notwithstanding the other ones that are in the
24 list, that's where the definition kicks you back into a
25 nonformity, because in 2001.1, the restrictions apply to a

1 nonconforming structure, which is specifically defined in Section
2 199. That's the dilemma that we have.

3 MS. HICKS: I still disagree with you because the
4 structure -- all elements of the structure conform, and the
5 existing lot constraint of 3,008 square feet is not making the
6 existing structure nonconforming. So you are not making an
7 addition on to an existing nonconforming structure.

8 CHAIRPERSON SOCKWELL: Well, if the
9 depth --

10 MS. HICKS: Well, if the land is under what the
11 current D.C. zoning regulations would allow for new construction
12 today.

13 CHAIRPERSON SOCKWELL: Well, I would disagree with
14 you to the extent that we have a definition that does not omit or
15 accept those properties where there is a lot area, or width of
16 lot, deficiency.

17 The percentage of lot occupancy is fine, but the
18 lot itself creates the nonconformity within the structure,
19 because the structure is upon the lot, which does not meet the
20 requirements of the minimum width of 50 feet and the minimum lot
21 area of 5,000 square feet established under the zoning code.

22 Yes, the grandfathering of the existing structure
23 would be agreed upon as far as I am concerned, because it is an
24 existing occupied, no change of use, structure.

25 But at the same time, in regard to the zone that

1 it is in, the lot is nonconforming, and the structure therefore,
2 which is a use of land and structure incidental to the land or
3 whatever, is a nonconforming structure under the strict
4 application of the definition.

5 MS. HICKS: Well, there are different
6 classifications of nonconformity, and we all recognize that it
7 is a nonconformity use of land, and nonconforming structures, and
8 there are nonconforming structures and use of land.

9 I don't think that this fits the -- the existing
10 structure fits the classification of being nonconforming. I
11 think the lot is nonconforming. It does not conform with the
12 current standards, but as the structure sits on the lot, the
13 existing structure conforms to all zoning requirements.

14 COMMISSIONER MITTEN: Mr. Sockwell --

15 CHAIRPERSON SOCKWELL: Well, this is the way that
16 I would look at it. If you took the area of the lot and you are
17 in a 40 percent zone, you cannot create a structure on this lot
18 that would be 40 percent of the minimum sized lot which could be
19 produced as of today in that zone.

20 Any lot that is preexisting that has a structure
21 on it, the structure can remain. But under the ordinance, you
22 have a lot that is substandard. So it cannot have a fully
23 standard structure built upon it.

24 The issue is one of whether we can interpret the
25 definition literally, or whether we are trying to look at it, and

1 must look at it, and can look at it, loosely.

2 COMMISSIONER MITTEN: Mr. Sockwell, I was just
3 going to say that I believe what Ms. Hicks is saying is that if
4 you just listen to the words of nonconforming structure, her
5 interpretation would prevail.

6 But given that nonconforming structure is a
7 defined term, we must look to it in interpreting whether or not
8 2001.3 applies.

9 CHAIRPERSON SOCKWELL: That's the dilemma that we
10 have.

11 COMMISSIONER MITTEN: Yes. And I really don't
12 feel that there is any other interpretation other than the one
13 that you have made, because it is quite literal.

14 CHAIRPERSON SOCKWELL: And were it not literal, I
15 would be much more prone to wanting to see it another way, or
16 feeling that I could see it another way. So that would just kick
17 it under Chapter 20.

18 COMMISSIONER MITTEN: I think at this point that
19 it might be fair to ask the applicant whether they are prepared
20 to make out a case where they can meet the variance test for
21 2001.3.

22 CHAIRPERSON SOCKWELL: Ms. Hicks?

23 MS. HICKS: If it is necessary for us to go under
24 the lot occupancy variance, and also the rear yard variance, I
25 feel like because of the lot constraints and the age of

1 construction, I think we could meet the test for variances under
2 those provisions.

3 CHAIRPERSON SOCKWELL: Well, then would you
4 proceed in that direction since I don't see another option for
5 us.

6 MS. HICKS: Okay.

7 COMMISSIONER MORGAN-HINTON: Are we talking about
8 adding another variance to the one that was advertised?

9 CHAIRPERSON SOCKWELL: Well, because the relief
10 requested was advertised as variances in the first place, there
11 were variance tests required anyhow. So I don't think we would
12 be going into deeper water necessarily.

13 COMMISSIONER MITTEN: Well, I think if they came
14 in under 223.1, which is the special exception one if I am not
15 mistaken. No?

16 MS. HICKS: No, we asked for two variances; a lot
17 occupancy variance, and also a rear yard variance.

18 CHAIRPERSON SOCKWELL: They are area variances.

19 MS. HICKS: They are area variances.

20 CHAIRPERSON SOCKWELL: I have to area variances
21 here on their application form.

22 COMMISSIONER MITTEN: And both of which could come
23 under the special exception of 223.1 if I am not mistaken.

24 CHAIRPERSON SOCKWELL: Well, were they advertised
25 as variances or special exceptions I guess is the questions.

1 MS. HICKS: As variances, two variances; a lot
2 occupancy and also a rear yard variance.

3 CHAIRPERSON SOCKWELL: So that the more
4 significant relief requested was in the advertisement?

5 MS. HICKS: Yes.

6 CHAIRPERSON SOCKWELL: So I think we are safe not
7 having -- well, just go forward as a variance.

8 MS. HICKS: Okay.

9 CHAIRPERSON SOCKWELL: We will have to add a
10 section in there from Chapter 20.

11 MS. HICKS: Mr. Dent, would you please go over the
12 architectural plans.

13 MR. DENT: Okay. You will see on these two pages
14 that we have a first and second floor plan, and what we are
15 asking permission for is to add an addition which will increase
16 on the first floor the kitchen size, and to give a kitchen that
17 is more proportional to this house.

18 Right now the existing kitchen is 8-by-10, and it
19 has three doorways into it, and two windows. It is not a very
20 pleasant sight at the moment. So we are trying to expand that to
21 give them a kitchen that is again more suitable for this type of
22 house.

23 On the second floor, again the second floor now
24 has only one hall bath, and we are trying to add to it a master
25 bath, which will come off the existing master bedroom, and be in

1 an area of 8-by-11 feet, again located directly over the first
2 floor structure.

3 We also -- and just to point out some elevations.

4 We do intend to -- and again as Mr. Page stated, we would be
5 using the same brick. We also intend to use the same brick
6 cordling out on the corners, which we see on the back and the
7 corners here, to maintain the same look as if the house was built
8 with this addition, instead of it being an addition.

9 And I think that's it. All the exterior materials
10 again will match what is on the house now, both in the color and
11 the texture of the building materials.

12 COMMISSIONER MORGAN-HINTON: Do you have any floor
13 plans that show the whole house?

14 MR. DENT: We do not. I can basically tell you
15 what is missing from this first floor plan, is that in this area,
16 from front to back, is the living room. And next to that is an
17 enclosed porch.

18 COMMISSIONER MORGAN-HINTON: And for the future, I
19 think it is misleading to only show part of the house, especially
20 when we are considering a variance that would make that an
21 addition on to a lot that is too small.

22 And that's because part of what we need to
23 determine is whether the request is reasonable. And when you are
24 only showing us a part of the house and showing us that you are
25 making it a little bit bigger, it is hard to evaluate where we

1 are starting from.

2 CHAIRPERSON SOCKWELL: I would agree with Ms.
3 Hinton that when I looked at the floor plans that I was trying to
4 understand why part of the building was missing. And because of
5 that, and the lack of overall dimensions on the plan, you merely
6 have an impression of the kitchen seating area, and a very, and
7 imprecise understanding of the relationship with the rest of the
8 house as a whole.

9 And I think that is -- and also the fact that you
10 didn't use a different dimension, a different indication for the
11 walls, where the walls were new, versus existing. It made it
12 more difficult to fully understand what was going on there.

13 But realizing from the elevations that there is
14 more house, it makes it easier to realize that there is not a 40
15 percent addition to a very tiny house, but a small addition to a
16 much larger building.

17 BOARD MEMBER RENSHAW: Mr. Chairman --

18 CHAIRPERSON SOCKWELL: Yes.

19 BOARD MEMBER RENSHAW: I would like to ask the
20 architect what is the dimension from the edge of the new addition
21 to the rear? I suppose the slanting line is now the rear line?

22 CHAIRPERSON SOCKWELL: Yes.

23 MS. HICKS: Yes.

24 BOARD MEMBER RENSHAW: And what are the dimensions
25 to that line and then also to -- do we call it a side yard that

1 is in back of the new addition?

2 CHAIRPERSON SOCKWELL: The interesting thing is
3 that the covered porch which is in a side yard, if one accepts
4 Ms. Hick's and Mr. Dent's rendition of this correctly, the
5 covered porch is through the house.

6 And the rear yard, I think you would take an
7 average dimension for the diagonal to chart the actual depth of
8 the rear yard. Would that be correct, Ms. Hicks?

9 MS. HICKS: Right. We came up with an average of
10 20 feet for the depth of the rear yard when the lot line is on an
11 angle, and you have to draw a line that coincides with the
12 furtherest most portion of the structure, and that intersect with
13 each side of the lot.

14 And to get the length of that line, and then get
15 the area bounded by the line, and the side lot lines, and the
16 rear lot line, and the average is the square footage divided by
17 the length of the line.

18 And that gives you an average per yard of 20 feet,
19 and we are 5 feet deficient on the average for the rear yard
20 measurement.

21 COMMISSIONER MITTEN: I believe Ms. Renshaw was
22 just asking for the dimensions at the closest point to the rear
23 line, and of the addition, and also from the furtherest point if
24 I am not mistaken.

25 BOARD MEMBER RENSHAW: From there to there, and

1 from there to there.

2 CHAIRPERSON SOCKWELL: Then that side yard -- one
3 is a rear yard, and that is the side. Okay. Do you have those
4 dimensions?

5 MR. DENT: The side yard here is 11.5 feet, and I
6 believe that it is about 12-1/2 feet at the corner here.

7 CHAIRPERSON SOCKWELL: And you don't have your
8 calculations here with you do you?

9 MS. HICKS: No, I don't. I just took straight
10 side yard measurements from where the adjacent neighbor is
11 located, and where it is 63.8. It is over 8 feet to the addition
12 wall, and to the main wall of the existing.

13 And I know that it is sitting 5 feet from the
14 Verplanck lot line, and on the addition, I believe it is about 7
15 feet on the addition from the Verplanck Street side.

16 CHAIRPERSON SOCKWELL: All right. For all intents
17 and purposes, the average is the dimension that we are really
18 required to work with. And you said that the average is 20 feet?

19 MS. HICKS: Yes, 20 feet and we are 5 feet
20 deficient.

21 CHAIRPERSON SOCKWELL: And that line abuts a 10
22 foot alley access to the adjacent home?

23 MS. HICKS: Yes.

24 MR. DENT: That's correct.

25 CHAIRPERSON SOCKWELL: So if you add that

1 dimension to even the shortest dimension, you are adding another
2 10 feet to whatever you have got for the sake of adjacencies, and
3 strictly the space between one piece of property and the next, or
4 any building that might reside on the adjacent piece of property.

5 MS. HICKS: And then along the Verplanck Street
6 side, there is another private property owner, and I believe that
7 is 50 feet when you get past the 10 foot wide driveway. So this
8 house is about 50 feet away from the driveway.

9 CHAIRPERSON SOCKWELL: Okay. Well, going from
10 that point, if you can sum up the issues as you see them with
11 regard to a variance, starting with the specifics of the lot.

12 MS. HICKS: Okay. Could we go over the photos
13 also?

14 CHAIRPERSON SOCKWELL: Yes, you may.

15 MS. HICKS: Okay. Mr. Dent, could you please go
16 over the photos.

17 MR. DENT: Yes.

18 MS. HICKS: And that might clear up a few
19 questions also.

20 MR. DENT: This lower picture shows the elevation
21 from the angle of looking at Verplanck Street, which is this
22 elevation here, and then 47th Street in that direction.

23 As was mentioned, a side porch that had been
24 enclosed is right here, and your front elevation, which we have a
25 drawing of, and then up here is the 47th Street elevation

1 showing what we consider our front yard and our two side yards
2 there.

3 And again this is the dimension which you asked
4 for, which is the 11-1/2 feet, and then on this side is the 5
5 feet. And that is really showing what is behind the Verplanck
6 Street elevation, and where our addition will connect to at this
7 location here.

8 And then extend out the 11 feet.

9 This is the elevation that we will be adding to,
10 and this is the existing kitchen window, and the existing closet
11 which we will be demolishing and extending into the bathroom.

12 Again, as you will notice, the floor gleam, which
13 we intend to match the color of the brick, all the dimensions and
14 style of the rake boards and such, and just down here a more
15 further away shot or angle shot which would show basically where
16 the addition would sit in that location. It is two stories, the
17 first one being larger than the second story.

18 CHAIRPERSON SOCKWELL: The roof is occupiable?

19 MR. DENT: The attic space?

20 CHAIRPERSON SOCKWELL: The attic space.

21 MR. DENT: Not really.

22 CHAIRPERSON SOCKWELL: Okay. I saw a window up
23 there.

24 MR. PAGE: Yes, it is sort of a -- it is not
25 finished, and the existing beams are pretty low. I don't know if

1 it could be altered to be able to expand.

2 CHAIRPERSON SOCKWELL: That's all you had to tell
3 me.

4 MR. DENT: It is nonconforming storage space.

5 BOARD MEMBER RENSHAW: Mr. Chairman, I would like
6 to ask if the new addition is on a slab, or are you excavating?

7 MR. DENT: It is to be excavating with stripped
8 footing, but there will not be space underneath it.

9 BOARD MEMBER RENSHAW: That's what I wondered.

10 MR. DENT: There will be a crawl space.

11 CHAIRPERSON SOCKWELL: Okay.

12 MR. DENT: Any other questions?

13 CHAIRPERSON SOCKWELL: No. I don't have any.

14 MS. HICKS: Do you have any additional information
15 that you would like to share about the proposed addition?

16 MR. DENT: A couple of items. One, when we did
17 this design, we did other alternatives to this plan, and to try
18 and accomplish the same goal here, and again giving them a
19 comfortable and sizeable kitchen for this house, and some space,
20 or what we will call family space.

21 And we were really unable to do that without
22 tremendous financial considerations without doing an addition.
23 We tried to do that by taking over the existing breakfast room,
24 and by demolishing the powder room and closet.

25 All of their mechanicals, or in other words, the

1 plumbing and duct work for their main house, go right up through
2 the powder room wall. It would have meant basically destroying
3 the existing bath upstairs to replum that and make that work, and
4 obviously moving the powder room, which would have been an
5 expense.

6 So we did research and tried to find out ways to
7 get around this problem, or to solve the problem without doing
8 the variance. And also when we did the addition, we were careful
9 at the owner's instruction not to encroach on the yard as much as
10 possible.

11 They requested that this be as small an addition
12 as possible to accomplish what the goal was. And we are going to
13 -- well, I shouldn't say we are. The owners are going to
14 considerable expense to match the brick and the details that
15 exist on that house, which would probably be a detriment if they
16 were not there.

17 And again we are trying to keep this addition as
18 close to, if not exactly, to the details that exist on it at this
19 time.

20 CHAIRPERSON SOCKWELL: The enclosed porch that is
21 shown on the property, can you raise that photograph back up for
22 us, please?

23 MR. DENT: Sure.

24 CHAIRPERSON SOCKWELL: Now, that is a fully
25 enclosed condition, a porch and the garage is underneath it?

1 MR. DENT: That's correct. You can see the slab,
2 the old existing slab line, and where the screened porch used to
3 sit at some point, and we don't know when that happened. Someone
4 came in and bricked it in, and the roof is the existing room,
5 bricked in, and put windows in it, as opposed to the screen.

6 CHAIRPERSON SOCKWELL: Interesting. I can't see
7 it close enough, but it is a fully conditioned additional room on
8 the ground floor?

9 MR. DENT: Yes.

10 CHAIRPERSON SOCKWELL: All right.

11 COMMISSIONER MORGAN-HINTON: On the photographs
12 that are in the file, and it is this photograph, it appears that
13 there is wood fencing, and some sort of shed where the addition
14 is going to go?

15 MS. HICKS: It is the adjacent neighbor's
16 property, and it is a garage, and there is a 10 foot wide
17 driveway that runs to the back, and leads to the garage for the
18 next door neighbor.

19 COMMISSIONER MORGAN-HINTON: Is that right on
20 their property line, the garage?

21 MR. PAGE: It must be. Well, it comes to -- it
22 must touch this corner. The garage is right next to what I would
23 consider our property line. I don't know if it is technically,
24 but our yard hits a little bit of their garage. It is only a
25 couple of feet that it sticks on this angled part.

1 COMMISSIONER MORGAN-HINTON: And then that fence,
2 it looks like there is a wood fence also?

3 MR. PAGE: Yes.

4 COMMISSIONER MORGAN-HINTON: Is that the fence
5 that is on your property?

6 MR. PAGE: It is actually fully on their property.
7 Their property actually goes a little bit beyond that fence, and
8 that is my understanding, and that is what they told us.

9 COMMISSIONER MORGAN-HINTON: Thank you.

10 CHAIRPERSON SOCKWELL: And you are saying that the
11 enclosed porch as we see it was originally an open porch?

12 MR. DENT: Based on my experience, I would say
13 yes. It may have been enclosed, but I would be surprised if it
14 was.

15 CHAIRPERSON SOCKWELL: And it appears to have an
16 access door from up above. That may not be the case, but it
17 looks like from the second floor that one can exit out on to a
18 roof.

19 MR. DENT: It has that railing, but it only has
20 windows.

21 CHAIRPERSON SOCKWELL: So it really is not an
22 active space for exit?

23 MR. DENT: No. Once again, it might be able to be
24 modified that way.

25 CHAIRPERSON SOCKWELL: Sure. Okay. And you have

1 owned the house for how long, sir?

2 MR. PAGE: Since September of '95, and so a little
3 over five years.

4 COMMISSIONER MITTEN: I had a question for Mr.
5 Dent if I may.

6 CHAIRPERSON SOCKWELL: Please.

7 COMMISSIONER MITTEN: You mentioned that you
8 attempted to figure out a way to adapt the house without doing an
9 addition, and that was prohibitively expensive. Did you also do
10 designs that would provide for an addition, but that would not
11 require a variance of the rear yard?

12 MR. DENT: We did, yes, but the addition would
13 only have been 5-1/2 feet deep.

14 COMMISSIONER MITTEN: And you couldn't accomplish
15 what you wanted to accomplish?

16 MR. DENT: No, not with a sitting area and kitchen
17 extension. We would not have been able to do the bathroom
18 upstairs.

19 COMMISSIONER MORGAN-HINTON: Did you look into
20 going higher, to expanding the third floor to make it useable
21 space?

22 MR. PAGE: That was something that occurred to us,
23 but that wasn't part of the active discussions. What we were
24 really aiming for was to improve the size of the kitchen and an
25 upstairs bathroom.

1 There would be a problem with access to the attic.

2 It is a pull-down ladder right now. I am not sure how you would
3 do it, but we didn't actually pursue that. We weren't actually
4 looking for more bedrooms.

5 COMMISSIONER MORGAN-HINTON: And I understand
6 that. It wouldn't help your kitchen at all probably. But
7 sometimes if there is enough room up there that a whole master
8 suite could maybe be moved up there, and then you would have more
9 room on your second floor.

10 MR. DENT: We would have had to raise the roof to
11 do so.

12 COMMISSIONER MORGAN-HINTON: Of course. Sure.

13 MR. DENT: And then probably taken away another
14 bedroom to get stairs up to that location.

15 COMMISSIONER MORGAN-HINTON: But it wouldn't
16 require any variances that I know of would it? I mean, you
17 wouldn't be taking up any more of the yard that is already small?

18 MR. PAGE: No.

19 MS. HICKS: They would not be able to get the
20 sized kitchen and sitting area if they wanted to go up higher.
21 They can go three stories or 40 feet high maximum. But there is
22 no third story, on an attic, on the upper level. This is an
23 existing two-story structure.

24 CHAIRPERSON SOCKWELL: Now, currently you are
25 using 37-1/2 percent of the lot; is that correct?

1 MS. HICKS: Yes, approximately.

2 CHAIRPERSON SOCKWELL: And you are requesting 45-
3 1/2 percent of the lot approximately?

4 MS. HICKS: Yes. The maximum allowed is 1,203.2
5 square feet, which is 40 percent. The existing square footage
6 that is occupied on the lot is 1,126.55 square feet.

7 We want to add 242 square feet, which takes it up
8 to 44 percent, which is 45.59 percent.
9 So we are over approximately 155 square feet, or rather 100.55
10 square feet.

11 CHAIRPERSON SOCKWELL: And the house was when,
12 approximately in '39?

13 MS. HICKS: Yes, 1939. I have included some old
14 surveys that I got from the D.C. Surveyor's Office. And I have
15 also looked up the age of the structure in the assessment
16 records.

17 CHAIRPERSON SOCKWELL: Yes, I reviewed some of the
18 same material. I think that basically that we don't have any
19 reports.

20 COMMISSIONER MITTEN: No, but I guess I would like
21 to hear some testimony that addresses specifically the variance
22 test.

23 CHAIRPERSON SOCKWELL: Okay. And that is what I
24 was going to suggest, that without any ANC report, or specifics
25 pro or con, that the applicant could provide a closing remark

1 that would be primarily supportive of the variance test, if that
2 would be appropriate at this time. She is not here for that,
3 unless Ms. Renshaw has a question.

4 BOARD MEMBER RENSHAW: No, I can add it after. I
5 will ask my question after Ms. Hicks finishes.

6 MS. HICKS: Okay. Thank you. We are requesting
7 variances from Section 404.1, a minimum rear yard setback
8 requirement, and also from Section 402.3, the maximum allowable
9 lot occupancy; and on the suggestion of the Board, a variance
10 from Section 2001.3, in order to add on to this existing two-
11 story structure.

12 We felt that there are practical difficulties that
13 are inherent with the land. The proposed construction still will
14 not be detrimental to the public good. The proposed construction
15 will not block light in relation of adjacent neighbors.

16 The property is unique in that when the existing
17 structure was built in 1939 the lot size was 3,088 square feet,
18 and the width of lot is 43.1 foot average.

19 If a new detached single-family dwelling were
20 built under the current zoning regulations, the lot would have to
21 be 50 feet wide and 5,000 square feet. The property is unique in
22 that the shape of the lot, the front and the rear lot lines, are
23 not parallel.

24 The side lot lines are parallel. The rear line
25 lot is at an angle, which makes a linear rear yard dimension

1 difficult. So therefore we had to average it based on the
2 methods used by the zoning administrator's office.

3 We feel like since we don't know that anyone has
4 complained against the proposed addition, we feel that it would
5 be a beneficial improvement to the structure, and with that I
6 conclude my argument.

7 CHAIRPERSON SOCKWELL: Would you make just a
8 little bit more of a statement towards practical difficulty.

9 MS. HICKS: One of the practical difficulties is
10 that the structure is in an established neighborhood, and it
11 seems like every other lot is undersized. There is no lot square
12 footage available to add on to make the lot conform to the
13 current zoning regulations.

14 There are practical difficulties in trying to
15 design for a lot that is not under the -- that is not conforming
16 under the current zoning regulations. There is difficulty in
17 trying to design and trying to get a reasonable addition to meet
18 the needs of this growing family.

19 They have ties to the neighborhood, and they like
20 the neighborhood that they are in. They do not want to move, and
21 they are committed to staying in the District of Columbia. So
22 they would like to proceed with the addition to the existing
23 structure.

24 COMMISSIONER MITTEN: Mr. Chairman, I think
25 without floor plans of the entirety of the structure, and without

1 floor plans that show the existing condition, it is difficult to
2 have a full appreciation of the elements related to the practical
3 difficulty in this case.

4 CHAIRPERSON SOCKWELL: I would tend to agree with
5 you that there are portions of the house that are not known to
6 us, and that those portions of the house would give us a much
7 richer understanding of the need for this particular variance
8 from the practical difficulty standpoint. And do you have --

9 MR. PAGE: I think these are the drawings. We
10 really weren't trying to put one over or anything. These are the
11 drawings that we drew up, and --

12 CHAIRPERSON SOCKWELL: Actually, the question was
13 raised in terms of the Board's understanding of the project. We
14 are normally given plans that show all that is proposed, as well
15 as the existing conditions.

16 The only thing we have that shows the existing
17 conditions is a plat, and the elevations even are cut off at the
18 point that the rest of the house on the 47th Street side would be
19 shown. That is, the side porch, in any way, shape, or form, is
20 not apparent in any of the drawings that were presented.

21 So the house takes on a much more compact
22 appearance than it actually has, and as Ms. Mitten, we can't feel
23 what is going on in here. It is a little bit more difficult to
24 grasp the house. And I believe that we would want to see that.

25 COMMISSIONER MITTEN: I believe there is an

1 element of what you are trying to convey to us that is saying,
2 well, look, given what we have, this is the only alternative that
3 we have to expand the house, and so we need to know what your
4 starting point is to have an appreciation for the fact of whether
5 that meets our standard for practical difficulty.

6 MS. HICKS: All right.

7 COMMISSIONER MITTEN: That's why it would be
8 important for us to see existing conditions.

9 BOARD MEMBER RENSHAW: Mr. Chairman.

10 CHAIRPERSON SOCKWELL: Yes.

11 BOARD MEMBER RENSHAW: Also, I am somewhat at a
12 loss as to why Mr. Page did not get this case before the ANC. I
13 think it is important to do so. You said that you kind of lost
14 track, and you didn't get it on the ANC agenda last -- was it
15 this month or was it last month, in January?

16 MR. PAGE: I think this month.

17 BOARD MEMBER RENSHAW: In February?

18 MR. DENT: If I could respond to that.

19 BOARD MEMBER RENSHAW: Yes, please, Mr. Dent.

20 MR. DENT: My wife has done most of the talking.
21 She has discussed it with ANC Commissioners, and actually one of
22 them offered -- the current one offered to write us a letter
23 saying that she didn't know of any objections.

24 BOARD MEMBER RENSHAW: But it should go before the
25 full meeting, and I note that the BZA sent the Chair a letter

1 that was dated December 21st, 2000. It was undoubtedly at the
2 time when the Commission was not meeting, and so it got lost in
3 the shuffle.

4 And then if that seat changed hands -- did it
5 change hands?

6 MR. PAGE: Yes.

7 BOARD MEMBER RENSHAW: Then it should be brought
8 back before the ANC, and it should get the agenda. Also, I would
9 like to have some written notification from your neighbors that
10 they have no problems with your addition.

11 MR. PAGE: We did discuss that verbally with the
12 five closest neighbors, the ones to -- the adjacent houses.

13 BOARD MEMBER RENSHAW: But something in writing
14 that states that they have seen the plan, and that they have
15 discussed it with you, and they have no problems with it, and
16 then they sign their name.

17 MR. PAGE: We could certainly provide that.

18 BOARD MEMBER RENSHAW: Also, did you when you
19 spoke to the five neighbors show them the construction plans and
20 when you thought you were going to be starting, and about the
21 excavation, if there is going to be any taking place?

22 MR. PAGE: We are not sure when we are going to be
23 starting, and that's apparently up to you. But, yes, we went
24 over the plans. They saw this whole packet, and that was the
25 main thing that we discussed, on how it was going to look and the

1 size of it.

2 BOARD MEMBER RENSHAW: And how long it was going
3 to take to get it to look like that?

4 MR. PAGE: I am pretty sure that probably came up
5 in the discussions. I couldn't tell you for sure, but yes.

6 BOARD MEMBER RENSHAW: But if you had a letter
7 setting out all these details, and then they signed, that would
8 be good for the BZA record.

9 MR. PAGE: Okay. We can do that.

10 CHAIRPERSON SOCKWELL: How much basement do you
11 have?

12 MR. PAGE: There is basement under the full area
13 of the house, including underneath the enclosed porch, which is a
14 garage.

15 CHAIRPERSON SOCKWELL: So actually the current
16 house is approximately -- it is a little over 3,000, maybe 3,300
17 square feet, now?

18 MS. HICKS: Volume wise?

19 CHAIRPERSON SOCKWELL: Volume wise.

20 MS. HICKS: We have not calculated the volume. I
21 know that the existing lot occupancy is 1,126.

22 MR. PAGE: Well, you wouldn't quite multiple that
23 by three, because you don't have over the enclosed porch.

24 CHAIRPERSON SOCKWELL: Right.

25 MR. PAGE: But, yes, something like that.

1 CHAIRPERSON SOCKWELL: I had calculated up pretty
2 close, and so it is a fairly large house by normal standards, and
3 that's not truly apparent by the drawings that we have. But I
4 thought that it would be worthwhile for the Board to have a
5 general calculation on the size of the house.

6 So we are not talking about a tiny house that is
7 in need of additional space for just to get by with improving
8 something that is very substandard. We are actually talking
9 about a fairly large house that would increase by approximately -
10 - well, another 480 square feet.

11 So we are talking about a house that is going to
12 be over 3,000 square feet full-done.

13 MR. PAGE: I don't know if my calculations are
14 that, but if you ---

15 CHAIRPERSON SOCKWELL: Somewhere close to that.

16 MR. PAGE: -- did the basement, first floor, and
17 second floor, there is about 805 square feet on each floor. So
18 it would be 2,400. And then add in the enclosed porch, which is
19 20-by-10, another 200 square feet, and that would give you 2,600
20 square feet as it stands now in volume, not including the third
21 floor.

22 CHAIRPERSON SOCKWELL: That's right, and the third
23 floor I wasn't counting, but you included the basement?

24 MR. PAGE: Yes, but not the garage.

25 MR. DENT: But not the garage. No, I did not

1 include the garage.

2 CHAIRPERSON SOCKWELL: You should include the
3 garage, because it is enclosed space.

4 MR. PAGE: Okay. So that would be 2,800 square
5 feet as it stands now.

6 CHAIRPERSON SOCKWELL: Right.

7 MR. PAGE: So it would be a little over 3,000
8 square foot house, yes.

9 MR. DENT: If I may respond to that. Really, our
10 intention is only to improve those two particular areas; one, the
11 kitchen, which is now 80 square feet, and the master bath, which
12 is nonexistent.

13 And they do have three kids in the house now and
14 would like to improve the utility of those two particular areas.

15 CHAIRPERSON SOCKWELL: And the Board understands
16 that. It's just that the variance test requirements require us
17 to look at the house from the standpoint of constraints that are
18 associated with the lot.

19 That it requires us to look at practical
20 difficulty to the owner of the house without receiving relief for
21 certain modifications. And, of course, the other test is the
22 lack of or the existence of any negative impacts to the surround
23 community, including the adjacent neighbors, et cetera, with
24 views, and light, and air, and such other elements.

25 So that is what I am just trying to grapple with,

1 and one of the things that made it a little bit difficult for me
2 until I just did this calculation was not really seeing the rest
3 of the house.

4 It is not part of the submission, and while it is
5 the concentration on this new proposed addition, it certainly
6 helps us to understand the rest of the house.

7 Board Members, do you have a preference on how to
8 proceed here?

9 COMMISSIONER MITTEN: I would suggest that we
10 would the record open to receive the plans, the expanded plans to
11 show the whole house, and plans that show the existing
12 conditions.

13 That we would allow adequate time so that the ANC
14 could take up the issue, and take a vote, and that we would also
15 leave the record open for Mr. Page to provide some letters from
16 his neighbors showing their support.

17 And at that point, I think we would have adequate
18 information in the record to proceed to a decision.

19 CHAIRPERSON SOCKWELL: Ms. Renshaw?

20 BOARD MEMBER RENSHAW: I second.

21 CHAIRPERSON SOCKWELL: All right.

22 VICE CHAIRPERSON REID: And I concur.

23 CHAIRPERSON SOCKWELL: All right. Then --

24 MR. DENT: Could I ask one question?

25 CHAIRPERSON SOCKWELL: Yes.

1 MR. DENT: With reference to the ANC, it is a
2 little confusing because Mrs. Page spoke last week to somebody at
3 the BZA, and then said the ANC letter was not required. And both
4 of the past and current ANC presidents both stated to Mrs. Page
5 that they were not required to her.

6 CHAIRPERSON SOCKWELL: The ANC stated that they
7 did not want to see this project before the ANC?

8 MR. DENT: Right.

9 CHAIRPERSON SOCKWELL: Can you get that in
10 writing?

11 MR. PAGE: Oh, sure. We can get that from the
12 Commissioner. She offered to do that, but then --

13 CHAIRPERSON SOCKWELL: Well, you need it from the
14 Chair.

15 MS. HICKS: As late as Friday, that was my main
16 concern, because we were getting conflicting information, and
17 based on my past experience, the ANC's opinion carries great
18 weight.

19 And I wanted to get something in writing showing
20 that the ANC had no opposition to the application. And it has
21 been like pulling teeth to get even something in writing, even
22 if it is just one sentence from the ANC.

23 MR. PAGE: The Chair offered to write it, but
24 actually the person that we had talked to at the BZA said that,
25 well, if it is just from the Chair, and it didn't officially come

1 up at the meeting, then that wouldn't be worth anything.

2 CHAIRPERSON SOCKWELL: Well, great weight is
3 afforded the advisory neighborhood commission and not the single
4 member district commissioner, or say an opinion letter from the
5 Chair.

6 BOARD MEMBER RENSHAW: But the Chair --

7 CHAIRPERSON SOCKWELL: And the ANCs don't always
8 provide information. It has been requested by one of the Board
9 Members that we be assured that ANC input was solicited, and that
10 the ANC chose not to hear this.

11 MR. PAGE: But that's what they told her.

12 BOARD MEMBER RENSHAW: And the Chair can't sign as
13 the Chair unless the letter is voted in a public meeting.

14 MR. PAGE: All right.

15 CHAIRPERSON SOCKWELL: The record shows that we
16 submitted two to the ANC, and so --

17 MS. PRUITT: I just want to be clear, Mr.
18 Chairman. Are you going to leave the record open for an ANC
19 letter?

20 CHAIRPERSON SOCKWELL: I would leave the record
21 open for the submissions of plans, and as required for our
22 deliberations. And I would request that the ANC be recontacted
23 to see if they have an interest in stating officially one way or
24 the other that they didn't --

25 MS. PRUITT: Well, the reason that I am asking is

1 because it means that then would set your determining for when
2 you could decide this. If you want to go forward with just the
3 new information of the plans and existing conditions, and not
4 have to -- and if the ANC would like to comment individually,
5 fine. You can do it in March.

6 If not, you are probably going to have to wait
7 until April so that they have enough time to have a meeting and
8 all of that.

9 VICE CHAIRPERSON REID: But if the ANC -- excuse
10 me, but if the ANC has already been notified --

11 MS. PRUITT: They have chosen not to respond.

12 CHAIRPERSON SOCKWELL: Then we can't force them,
13 no, and we have no reason to.

14 VICE CHAIRPERSON REID: Can we revisit this and
15 send them something.

16 MS. PRUITT: Great. I just wanted to be sure.

17 VICE CHAIRPERSON REID: And if by our next meeting
18 we have not yet heard from them in a timely fashion, then we will
19 assume that there is not a problem.

20 MS. PRUITT: Then we will put this on for a
21 decision in March.

22 CHAIRPERSON SOCKWELL: If the ANC is interested,
23 they would write to us requesting a continuance for the
24 opportunity to meet on this project. If they choose not to do
25 such, then they are not involved.

1 BOARD MEMBER RENSCHAW: Well, perhaps again there
2 has been a change in the ANC Commissioner in your single member
3 district. So I can understand that it may have very well fallen
4 through the cracks, plus the holiday period when the letter was
5 sent out.

6 So perhaps we could again recontact the ANC and
7 just ask for a letter, and if they choose this time around not to
8 respond, then that's that.

9 MR. DENT: Can they write a letter that they do
10 not want to hear the case?

11 BOARD MEMBER RENSCHAW: They could. They could.

12 CHAIRPERSON SOCKWELL: I think that all that needs
13 to be done is to contact the ANC and find out if they received.
14 If they received notice, then it is on them to do what they are
15 going to do.

16 MS. PRUITT: It is in the record that they did
17 receive notice.

18 CHAIRPERSON SOCKWELL: That we sent it out.

19 MS. PRUITT: Yes.

20 CHAIRPERSON SOCKWELL: Yes, but that they received
21 it.

22 MS. PRUITT: Normally if they didn't, it does come
23 back.

24 CHAIRPERSON SOCKWELL: And if it hasn't come back,
25 then they have it. Let's put it this way. I would suggest that

1 you give us the plans that we asked for, and if you choose to go
2 to the ANC to request a letter, fine.

3 If not, they have been noticed, and they won't
4 respond because for one reason or another they are just not
5 planning to, then that is all right. Then we will go forward
6 that way.

7 It is always good to have the great weight of
8 their support as Ms. Hicks stated.

9 VICE CHAIRPERSON REID: Of this body.

10 CHAIRPERSON SOCKWELL: Yes, of this body. So we
11 will continue to a date certain.

12 MS. PRUITT: This will be decided on March 6th.
13 Is there a certain time when you would like to have all the
14 information in? If you are going to do a decision on March 6th,
15 I would suggest that the revised plans and any letters of
16 support, or anything that you need to get in, it needs to be in
17 by Monday, February 26th.

18 CHAIRPERSON SOCKWELL: Okay. Can you meet that
19 without a problem?

20 MR. DENT: I don't see any problem at all.

21 MS. HICKS: There is no problem.

22 CHAIRPERSON SOCKWELL: Okay. Then we will
23 continue this date to a date certain, March 6th, 2001. And that
24 will be a decision meeting, and so it will be an a.m. meeting.

25 You won't be able to present anything. Everything

1 will have been submitted to the record by that, and you won't be
2 speaking at the hearing, but Ms. Hicks will explain to you, of
3 course, as your representative. All right. Thank you.

4 MS. HICKS: Thank you.

5 MR. PAGE: Thank you.

6 MR. DENT: Thank you.

7 COMMISSIONER MITTEN: I think these folks are
8 waiting for some sort of indication from you about whether they
9 can leave.

10 CHAIRPERSON SOCKWELL: Oh, I'm sorry. I thought I
11 said thank you. I apologize. All right. We will the next case.

12 MS. BAILEY: The case was already called, and I
13 think the applicants went out to --

14 CHAIRPERSON SOCKWELL: That's true. All right.
15 You may proceed.

16 MR. LEONARD: Mr. Chairman, earlier today it was
17 suggested that for our application that we needed a variance, as
18 opposed to a special exception, and you suggested that we discuss
19 with staff the arguments needed to support a variance for our
20 property, which is 5910 31st Place, Northwest.

21 My name is Paul Leonard, and I am the owner and
22 occupant of the home, and what we would like to do is construct
23 an addition which would extend the kitchen about 8 feet, and
24 connect it with the existing enclosed porch.

25 And we are requesting a variance for the following

1 reasons, and one is the shape and size of our lot, which is
2 unique, and it is a triangular lot due to the way that 31st Place
3 runs at this point.

4 It doesn't run perpendicular to 31st Place. It
5 angles down, so that our lot ends up being closer than the 25
6 feet needed to the back of the alley.

7 So it is not so much the structure that we are
8 proposing. It is the shape of the lot that makes it a unique
9 circumstance. The addition that we are proposing is really the
10 only practical alternative.

11 We currently have a small galley kitchen, and it
12 will make the kitchen slightly bigger, and enable it to connect
13 to the existing porch. But it won't extend any further than the
14 structure that is already there. So we are not adding a unique
15 structure.

16 It will be pretty much consistent with the rest of
17 the house. As far as the practical need for the variance, there
18 is really no other way to do it that wouldn't cause difficulties.

19 If we went to the side of the house, that's where
20 the dining is, and we would also be closer to our neighbors, who
21 at that point might object, and we would also have to take down a
22 fairly mature tree.

23 So going to the side on the north side of the
24 house isn't really practical. Essentially coming out 8 feet to
25 the rear of the house and connecting with the porch is the most

1 practical way to do it. In addition, our neighbors to the rear
2 across the alley have a fairly regular sized lot yard.

3 So they would not be impacted by the addition,
4 because the addition as I said wouldn't extend any further than
5 the existing rear of the house. As I understand it, it is within
6 the lot occupancy limit as we discussed with the staff.

7 It is a residential addition, a kitchen expansion,
8 and enabling us to have a small table space kitchen, and connect
9 with the porch to increase the flow of traffic for my kids and my
10 wife, and myself.

11 So that is the main purpose of the request for the
12 variance, and essentially that is the only practical approach to
13 do it, and leave it at that, and let you ask any questions.

14 CHAIRPERSON SOCKWELL: Thank you.

15 BOARD MEMBER RENSHAW: Mr. Leonard, just to
16 clarify. On the second floor is going to be what? Would you
17 explain that a little bit?

18 MR. LEONARD: On the second floor would be either
19 a small room or a walk-in closet, because we are not going back
20 any further than the existing -- I don't know if you have the
21 photos there, but the way these houses are constructed, on the
22 second floor above the porch is a small bedroom.

23 And so we would come out even with that, and there
24 would essentially be either another small room or a walk-in
25 closet.

1 BOARD MEMBER RENSHAW: But not a bathroom that
2 would connect with the small room that is already there?

3 MR. LEONARD: No.

4 CHAIRPERSON SOCKWELL: So the dimensions of your
5 addition are approximately 8 feet in width by 11 feet, 4 inches,
6 in -- well, 8 feet in depth and 11 feet, 4 inches in width, is
7 that correct, based on the drawings?

8 MR. LEONARD: Yes, 8 feet in depth, and actually I
9 see 11 feet in depth on the north side, because we would be
10 coming out over where the outside steps are. We would be
11 enclosing the outside steps as well. So that would be part of
12 the addition.

13 CHAIRPERSON SOCKWELL: One of the problems that we
14 have raised is that we don't have full plans that show the rest
15 of the existing house. Do you have any plans of the full floor
16 plans of the house?

17 MR. LEONARD: I do not have the full floor plans
18 with me, Mr. Chairman.

19 CHAIRPERSON SOCKWELL: But do you have them
20 available?

21 MR. LEONARD: That I don't know. I would have to
22 check and see if we do have a floor plan of the house.

23 CHAIRPERSON SOCKWELL: Because what the Board has
24 been requesting, and has requested of the previous applicant was
25 something that clarifies to us the specific issues from a floor

1 plan standpoint that might create the support for the practical
2 difficulty aspect in particular.

3 And that's because what we are seeing is an
4 envelope perspective, or I guess this is an isometric drawing of
5 the proposed addition, and then we have a section which is more
6 of a structural section.

7 And then we have several of those, and then we
8 have structural floor plans, but we really don't have an
9 architectural floor plan of the house or the addition to give us
10 a better understanding of exactly what it is that you are
11 building and how it integrates into the rest of the house.

12 MR. LEONARD: Well, I can try explaining that
13 briefly orally if that would help.

14 CHAIRPERSON SOCKWELL: Well, for the sake of the
15 hearing, and understanding that you didn't come with your
16 designer or your contractor, we will ask you to try and explain
17 as best you can what it is that you are building.

18 And if you would do it by explaining the adjacent
19 pieces using whatever documents or photographs that you have to
20 make us understand it?

21 MR. LEONARD: Well, the home is a basic center
22 hall, colonial floor plan. The addition would be to the
23 horizontal galley kitchen, which is in the rear of the dining
24 room.

25 When you enter the house from 31st Street, there

1 is a living room on your left, and a dining room on your right.

2 CHAIRPERSON SOCKWELL: And you enter approximately
3 in the center of the house?

4 MR. LEONARD: Yes, you enter into the center of
5 the house, and the stairs are immediately in front of you. But
6 there is no true center hall. It is a center hall layout, but
7 there is no true center hall.

8 So the dining room is to your right, and behind
9 that is a galley, a narrow galley kitchen. What we would be
10 doing is moving the rear wall so that you would have space at the
11 back of the kitchen. There may be photographs in the file.

12 CHAIRPERSON SOCKWELL: Just pass this down to Ms.
13 Pruitt, please, and she will pass it back to us. It is just a
14 formality.

15 MR. LEONARD: So essentially the purpose of this
16 addition is to make the kitchen large enough to have a small
17 table, and to connect it with the enclosed porch, so that you
18 would essentially have at least somewhat of a family room
19 feeling, although it would be on a small scale, without extending
20 beyond what the current perimeters of the house are.

21 And the house is the furthest extension into the
22 rear of the yard.

23 CHAIRPERSON SOCKWELL: And when you come in the
24 front door and go to the left, you go to the living room?

25 MR. LEONARD: Yes.

1 CHAIRPERSON SOCKWELL: And what is behind the
2 living room?

3 MR. LEONARD: The enclosed porch or den.

4 CHAIRPERSON SOCKWELL: Okay. So the living room
5 is fairly large? Well, I don't mean large-large. I mean, the
6 house is only 30 feet wide, which means that you have got 4 feet
7 probably devoted to the stair, and that leaves 26, and so that
8 means that you have 13 feet on each side of it, the width of the
9 two rooms on either side of the stair going up.

10 You have a closet under the stair off the living
11 room?

12 MR. LEONARD: Yes. There is a small closet under
13 the stairs when you enter the house, and then in the small
14 hallway between the kitchen and the living room, there is a small
15 closet and a half-bath.

16 BOARD MEMBER RENSHAW: Mr. Leonard is describing
17 my house.

18 MR. LEONARD: Right. Most of them are like that
19 in that area.

20 CHAIRPERSON SOCKWELL: Okay. So the porch, and
21 basically you go upstairs to a hallway, and then there is a
22 bathroom?

23 MR. LEONARD: At the top of the stairs, there is a
24 landing, and immediately to your right is a bathroom. To the
25 left is the small third bedroom, and then the master bedroom,

1 which is above the living room.

2 And then above the kitchen and dining room, or
3 above the dining room is a second bedroom, and above the kitchen
4 is a bathroom. So extending the kitchen out, the second floor
5 would be -- we would add another small room.

6 But essentially it would be the size of a walk-in
7 closet. I doubt if we would be able to use it as a bedroom. It
8 would be more useful as a closet as the plan.

9 CHAIRPERSON SOCKWELL: Or a little study or
10 something?

11 MR. LEONARD: Right.

12 CHAIRPERSON SOCKWELL: And that would be behind
13 the bathroom, between the bathroom and what would be the master
14 bedroom?

15 MR. LEONARD: Yes.

16 CHAIRPERSON SOCKWELL: So how many baths are
17 upstairs?

18 MR. LEONARD: There is two baths; one in the
19 hallway and one in the master bedroom. So we would not be adding
20 a bathroom. We would just be extending the kitchen and adding a
21 small room upstairs.

22 CHAIRPERSON SOCKWELL: Okay. So you have three
23 bedrooms, two baths, and you would create a small den or storage,
24 or utility space, for whatever you want to do up there?

25 MR. LEONARD: Right.

1 CHAIRPERSON SOCKWELL: Your house is very compact,
2 and it is obvious that in this case the additional space would be
3 valid to your lifestyle anyway.

4 The problem that we have is that in this case we
5 have a different issue. In your case, we have a set of
6 structural drawings, construction drawings, that were really
7 designed for building this, and not designed for detailing it as
8 an architectural set.

9 And these are fairly well laid out to decide what
10 is going to be used to construct this, but they don't show us the
11 rest of your house. However, you described it in ways that I
12 think are good. I don't know that I am as concerned with this as
13 I was with the other.

14 But I don't know how to err on the side of
15 fairness with regard to this, and that's why I am really --

16 VICE CHAIRPERSON REID: Mr. Chairman, we can do
17 the same thing we did with the other case, and not vote on this
18 particular case today, and require that the floor plans for the
19 entire house be submitted prior to our deliberations.d

20 CHAIRPERSON SOCKWELL: Can you submit to us, sir -
21 -

22 VICE CHAIRPERSON REID: And hopefully at the next
23 meeting.

24 CHAIRPERSON SOCKWELL: Yes. Can you submit to us
25 a dimension or to scale, and not necessarily this kind of

1 drawing, but an architectural plan that shows the various levels
2 of your house and the bathrooms, kitchen, just the basic layout
3 of the kitchen counters, and bathrooms, and the addition as it
4 connects shown so that we can determine what the addition is just
5 from a floor plan standpoint.

6 Not a construction plan stand, but just a floor
7 plan standpoint. It can be done effectively in a somewhat free-
8 hand manner, similar to what another applicant provided, and that
9 would help us to understand exactly what it is that you are
10 building or proposing.

11 MR. LEONARD: And when would that need to be
12 submitted?

13 CHAIRPERSON SOCKWELL: That would need to be
14 submitted one week prior to --

15 MS. PRUITT: That would be February 26th, and then
16 you can have it for the March 6th meeting.

17 BOARD MEMBER RENSHAW: Mr. Chairman, the property
18 has to be re-posted or posted, period.

19 COMMISSIONER MITTEN: Exactly.

20 MS. PRUITT: But that still gives them enough
21 time. It only has to be posted for 15 days, and so you can still
22 make the March 6th meeting.

23 MR. LEONARD: The decision date is March what?

24 MS. PRUITT: March 6th. And your floor plans
25 would be due here on February 26th. And of course as was said,

1 to re-post your property. And the record would remain open until
2 then.

3 MR. LEONARD: Yes.

4 COMMISSIONER MORGAN-HINTON: May I ask when this
5 first addition was built?

6 MR. LEONARD: The first addition -- well, it
7 wasn't an addition. It was an enclosure of the screened porch.
8 So the second floor already existed, and so we enclosed the
9 screened porch and I think it was 1996.

10 COMMISSIONER MORGAN-HINTON: Did you get a
11 variance at that time?

12 MR. LEONARD: I don't believe we needed a variance
13 because it was already an existing structure, but I would have to
14 go and check.

15 CHAIRPERSON SOCKWELL: What did you have done in
16 '96? I'm sorry.

17 MR. LEONARD: We enclosed the existing porch.

18 CHAIRPERSON SOCKWELL: It would not have required
19 a variance as long as the room was in place, and it would have
20 been a building permit. As long as you didn't extend the porch.

21 MR. LEONARD: No, the second floor existed as it
22 is, and basically we just changed it from a screened porch to --

23 COMMISSIONER MORGAN-HINTON: It was a two-story
24 porch?

25 MR. LEONARD: It is a two-story, but the second

1 floor is permanent. It was just a porch on the first floor.

2 CHAIRPERSON SOCKWELL: But it was always enclosed
3 above?

4 MR. LEONARD: Yes.

5 CHAIRPERSON SOCKWELL: Okay. All right. I think
6 if you understand what we have requested --

7 MR. LEONARD: So we have to re-post the yard, and
8 then submit a floor plan that shows the entire floor plan of the
9 house for the first and second floors.

10 CHAIRPERSON SOCKWELL: Right. For example, this
11 type of floor plan, if you look forward, was shown to us, but it
12 doesn't show everything that we wanted to see.

13 MR. LEONARD: That is not the entire house.

14 CHAIRPERSON SOCKWELL: No, but we want the entire
15 house. They as well have been asked to come back, but it can be
16 in this form of not solid ruled lines, but to scale. The person
17 you will have do it will understand that it has to be a scaled
18 drawing.

19 COMMISSIONER MITTEN: And just so Mr. Leonard is
20 clear, it is helpful to us if we can have that with existing
21 conditions, and then as it would be as you propose the addition.

22 CHAIRPERSON SOCKWELL: And some overall dimensions
23 just to show the size of the exterior shape.

24 BOARD MEMBER RENSHAW: Mr. Leonard, I have two
25 pictures here.

1 MR. LEONARD: Yes.

2 BOARD MEMBER RENSHAW: Will you be -- are you
3 coming out and covering these outside stairs?

4 MR. LEONARD: Yes.

5 BOARD MEMBER RENSHAW: Would you explain how you
6 are going to handle that when you come back with your drawings,
7 please, because you have to relocate those stairs, I believe?

8 MR. LEONARD: Right. The stairs would just change
9 direction, but we will explain that.

10 BOARD MEMBER RENSHAW: Would you, please? Okay.

11 MS. BAILEY: Ms. Renshaw, just for clarification,
12 when the applicant comes back, that will be a meeting, and so he
13 won't be able to do any discussion with the board, unless the
14 board opens the record at that point.

15 And so are you asking him to write that on the
16 information and submit it to the Board?

17 BOARD MEMBER RENSHAW: Yes. I would like to know
18 how he is going to handle these outside stairs. They must be
19 included in his architectural drawings somewhere, but I didn't
20 see this information on what was submitted.

21 MR. LEONARD: So submit a written explanation.

22 BOARD MEMBER RENSHAW: And also indicate on your
23 floor plan exactly where they are going to go .

24 MR. LEONARD: Right.

25 CHAIRPERSON SOCKWELL: I believe, Ms. Renshaw,

1 that if he supplies the floor plan with the indication, and you
2 can actually correct the drawing, if it doesn't show effectively
3 -- if it shows how the stairs are on the side of the house, and
4 if that is the new way out.

5 MR. LEONARD: They would just be reversed along
6 the same of the house, but I will show that.

7 CHAIRPERSON SOCKWELL: Well, show it in the floor
8 plan so that we know where those stairs are. Anything that
9 connects to the house, please show us in the floor plan.

10 And the due date for that you understand; is that
11 correct?

12 MR. LEONARD: February 26th.

13 CHAIRPERSON SOCKWELL: Yes. All right. I think
14 that is all that we need.

15 MR. LEONARD: So we will produce the additional
16 documentation by February 26th to you.

17 CHAIRPERSON SOCKWELL: Yes. And we will have a
18 decision meeting and not another hearing. I think we have enough
19 information from you, unless any of the board members feels
20 otherwise, and that we wouldn't continue it as a hearing.

21 We are just continuing it to a date certain for a
22 public meeting, where we will decide after reviewing your
23 additional submissions.

24 MR. LEONARD: Thank you.

25 CHAIRPERSON SOCKWELL: Thank you very much.

1 Unless there are any other items on the agenda, we will adjourn.

2 MS. BAILEY: There are none, Mr. Chairman.

3 CHAIRPERSON SOCKWELL: Thank you. Then that
4 completes the afternoon public hearing.

5 (Whereupon, the hearing was concluded at 3:35
6 p.m.)

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